THE

BENGAL CODE,

IN TWO VOLUMES,

WITH A

SUPPLEMENT FOR ASSAM.

VOLUME II,

CONTAINING

THE UNREPEALED ACTS OF THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL,

WITH

A CHRONOLOGICAL TABLE,

AND

AN APPENDIX

SHOWING

LACES IN BENGAL IN WHICH CERTAIN OF THE ACTS HAVE BEEN BROUGHT INTO FORCE.

SECOND EDITION.

CALCUTTA:

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[a] Ben. Reg. I of 1798 is still in force in the Sonthal Pergunnahs and possibly in the Chota Nagpore Division; it has, however, not been reprinted in the Code.

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	XVII[a]	Interest: Redemption .	Rep. (except in Punjab), IV of 1882. Printed, Punjab Code.	
	XVIII	*Canal tolls, Bengal* .	*Rep., XII of 1873.*	
	XIX	*Duty on Spirits* . .	*Rep., Ben. Reg. IX of 1810.*	
	XX	*Sale of Spirits in Cantonments.*	*Rep., Ben. Reg. X of 1813.*	
	XXI	*Tahsildárs, Benares, &c.*	*Rep., XXIX of 1871.*	
	XXII	*Pensions*	*Rep., XXIII of 1871.*	
1807		*Provincial Courts of appeal.*	*Rep., X of 1861.*	
	II	*Punishment of Perjury and Forgery.*	*Rep., XVII of 1862.*	
	III	*College at Fort William.*	*Rep., Ben. Reg. XX of 1814.*	

[a] Ben. Reg. XVII of 1806 is still in force in the Sonthal Pergunnahs and possibly in the Chota Nagpore Division; it has, however, not been reprinted in the Code.

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	V	*Cultivation of Poppy* .	*Rep, Ben. Reg. XIII of 1816*	
	VI	*Partition of small estates*	*Rep., Ben. Reg. V of 1810.*	
	VII	*Payment of revenue, Benares.*	*Rep., XIX of 1873.*	
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	XIV	*Police, Benares, &c.* .	*Rep., XXIX of 1871.*	
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1808	I	*Tax on Társ* . . .	*Rep., Ben. Reg X of 1813*	
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	III	*Sale of Társ* . . .	*Rep., Ben. Reg X of 1813.*	
	IV	*Kánúngos, Benares, &c.* .	*Rep., XIX of 1873.*	
	V	*Settlement, Ceded Provinces.*	*Rep., XXIX of 1871.*	
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	VI	*Cultivation of Poppy .*	*Rep., Ben. Reg. XIII of 1816.*	
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	IX	*Administration of justice at Chinsurah and Chandernagore . . .*	*Rep., VIII of 1868.*	
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	III	*Oaths of Paupers . .*	*Rep., Ben. Reg. XXVIII of 1814.*	
	IV	*Commissioner in Cuttack.*	*Rep., VIII of 1868.*	
	V	*Division of revenue-paying estates.*	*Rep., Ben. Reg. XIX of 1814.*	
	VI	*Information of robberies .*	*Rep., X of 1872.*	
	VII	*Canal-tolls . . .*	*Rep., XXII of 1836.*	
	VIII	*Superintendents of Police*	*Rep., VIII of 1868.*	
	IX	*Customs . . .*	*Rep., VI of 1863.*	
	X	*Town-duties . . .*	*Rep., XVI of 1874.*	
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	XI	*Jama on divided estates* .	*Rep.* (*in Bengal*), *Ben. Act VIII of 1876*; (*in N.-W. P.*), *XIX of 1863*; (*in Assam*), *Reg. I of 1886.*	
	XII	*Sadr Diwáni Adálat* .	*Rep., VIII of 1868.*	
	XIII	*Board of Revenue, B. B. O. & Cuttack.*	*Rep., XXIX of 1871.*	
	XIV	*Transportation, 24-Pergunnahs.*	*Rep., XVII of 1862.*	
1812	I	*Duty on horses: Export of Woollens, Bengal.*	*Rep., VIII of 1868.*	
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	V	Collection of Land-revenue.	Rep., in part, X of 1859, s. 1; XVI of 1874, s. 1; XII of 1876, s. 1; Ben. Reg. XII of 1824, s. 2; Ben. Reg. VII of 1830, s. 2; Ben. Reg. VIII of 1831, s. 2. Rep. (in N.-W. P.), XIX of 1873, s. 2. (in Bengal, except Calcutta, Orissa and Scheduled Districts), VIII of 1885, s. 2; (in Assam), Reg. I of 1886, s. 2.	111
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	XII	*Stamps . . .*	*Rep., Ben. Reg. I of 1814.*	
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	XIV	*Leases, Ceded and Conquered Provinces, Cuttack.*	*Rep., XXIX of 1871.*	
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1816	I	*Superintendence of revenues, Benares and Behar.*	*Rep., Ben. Reg. III of 1822.*	
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[a] Ben. Reg. VI of 1819 is possibly still in force in the Chota Nagpore Division; it has, however, not been reprinted in the Code.

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	V	*Amending Reg. IX of 1808.*	*Rep., VIII of 1868.*	

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Year.	No.	Subject or short title.	Repeals and amendments.	Page.
1822—*contd.*	VI	*Court of Wards, Benares.*	*Rep.* (*in Bengal*), *Ben. Act IV of 1870*; (*in N.-W. P.*), *XIX of 1873*; (*in C. P.*), *XVII of 1885.*	
	VII	Settlement, Ceded and Conquered Provinces, Cuttack.	Rep., in part, VIII of 1835, s. 1; XXV of 1837, s. 2; X of 1859, s. 1; XX of 1865, s. 3; XVI of 1874, s. 1; XII of 1876, s. 1; Ben. Reg. IX of 1833, ss. 2 and 3. Amended, Ben. Reg. IX of 1825; Ben. Act III of 1868.	179
			Rep. (in N.-W. P.), XIX of 1873, s. 2; (in Assam), Reg. I of 1886, s. 2.	
	VIII	*Criminal Procedure: Venue.*	*Rep., XVII of 1862.*	
	IX	*Aliens . . . .*	*Rep., I of 1849.*	
	X	*Gáro Hillmen . .*	*Rep., XXII of 1869.*	
	XI	Sale of land for arrears of revenue.	Rep., in part, XII of 1841, s. 1; (in N.-W. P.), XIX of 1873, s. 2; Rep. (in Oudh), XVIII of 1876, s. 3; (in Assam), Reg. I of 1886, s. 2.	209
1823	I	*Amending Reg. I of 1821.*	*Rep., VIII of 1868.*	
	II	*Suppression of affrays . .*	*Rep., XVII of 1862.*	
	III	*Printing Presses . .*	*Rep., XI of 1835.*	
	IV	*Criminal Procedure . .*	*Rep., XVII of 1862.*	
	V	*Customs . . . .*	*Rep., VIII of 1868.*	
	VI	Indigo-suits . . .	Rep., in part, X of 1836, s. 1; VII of 1870, s. 2; XVI of 1874, s. 1; XII of 1876, s. 1. Amended, Ben. Reg. V of 1830.	210

PART I.—TABLE OF ALL BENGAL REGULATIONS—*contd.*

Year.	No.	Subject or short title.	How repealed or otherwise Repeals and amendments.	Page.
1823—*contd.*	VII	Loans by Covenanted Civil Servants.	Rep., in part, XVI of 1874, s. 1.	215
1824	I	*Acquisition of land for public purposes.*	*Rep., VIII of 1868.*	
	II	*Farakhábád Rupee* .	*Rep., VIII of 1868.*	
	III	*Jurisdiction of Registrar*	*Rep., X of 1861.*	
	IV	*Registrar of Deeds* .	*Rep., XVI of 1864.*	
	V	*Extending Reg. VI of 1823.*	*Rep, XV of 1874.*	
	VI	*Criminal Procedure* .	*Rep., XVII of 1862.*	
	VII	*Manufacture and sale of Opium.*	*Rep., in part, XXI of 1856. Residue rep., XIII of 1857.*	
	VIII	*River-tolls, Bengal* .	*Rep., XII of 1873.*	
	IX	*Settlement, Conquered Provinces and Bundelkhand.*	*Rep., in part, VIII of 1868. Residue rep., XIX of 1873.*	
	X	*Pardon of accomplices* .	*Rep., XVII of 1862.*	
	XI	*Local investigations* .	*Rep., XXIX of 1871.*	
	XII	*Penalty on revenue-defaulters.*	*Rep., Ben. Reg. VII of 1830.*	
	XIII	*Sadr Amins* . . .	*Rep., X of 1861.*	
	XIV	*Summary Rent-suits* .	*Rep., X of 1859.*	
	XV	*Forcible dispossession* .	*Rep., IV of 1840.*	
	XVI	*Stamp-duties* . .	*Rep., X of 1829.*	
1825	I	*Criminal Procedure* .	*Rep., XVII of 1862.*	
	II	*Reviews and Special appeals.*	*Rep., X of 1861.*	
	III	*Sentences of Courts of Circuit.*	*Rep., Ben. Reg. XVI of 1825.*	
	IV	*Security for keeping peace and for good behaviour.*	*Rep., XVII of 1862.*	
	V	*Union of powers of Judge and Collector.*	*Rep., VIII of 1868.*	

PART I.—TABLE OF ALL BENGAL REGULATIONS—*contd.*

Year.	No.	Subject or short title.	Repeals and amendments.	Page.
1825—*contd.*	VI	Passage of troops . .	Rep., in part, XII of 1876, s. 1. and amended (in Oudh), XVIII of 1876, s. 3. Amended (in C. P.), XX of 1875, s. 3.	217
	VII	*Execution of decrees* .	*Rep., XVI of 1874.*	
	VIII	*Native Officers: False charges.*	*Rep., XXIX of 1871.*	
	IX	Extending Reg. VII of 1822, Leases by Revenue-authority.	Rep., in part (in Bengal), XX of 1865, s. 3. Rep. (in N.-W. P.), XIX of 1873, s. 2; (in Assam), Reg. I of 1886, s. 2.	219
	X	*Commercial Residents* .	*Rep., VIII of 1868.*	
	XI	Alluvion and diluvion .	Rep., in part (in Bengal, except Calcutta, Orissa and Scheduled Districts), VIII of 1885, s. 2; and amended (in Oudh), XVIII of 1876, s. 3.	227
	XII	*Criminal Procedure* .	*Rep., XVII of 1862.*	
	XIII	Kánúngos . . .	Rep. (in N.-W. P.), XIX of 1873, s. 2; (in Assam), Reg. I of 1886, s. 2.	230
	XIV	Lákhiráj tenures . .	Rep., in part, XII of 1873, s. 1; XVI of 1874, s. 1. Rep. (in N.-W. P.), XIX of 1873, s. 2; (in Assam), Reg. I of 1886, s. 2.	233
	XV	*Customs-duties and drawbacks.*	*Rep., XVI of 1874.*	
	XVI	*Sentences by Courts of Circuit.*	*Rep., XVII of 1862.*	
	XVII	*Gorakhpur Zila* . .	*Rep., Ben. Reg. I of 1829, s. 5.*	
	XVIII	*Chinsurah* . . .	*Rep., XII of 1876.*	
	XIX	*Názim of Bengal* . .	*Rep., XXVII of 1854.*	

PART I.—TABLE OF ALL BENGAL REGULATIONS—*contd.*

Year.	No.	Subject or short title.	Repeals and amendments.	Page.
1825—*contd.*	XX[a]	*Courts-Martial and Military Courts of Requests.*	*Rep., X of 1882.*	
	XXI	*Dehra Doon . . .*	*Rep., XV of 1874.*	
1826	I	*Provincial Courts of Appeal.*	*Rep., VIII of 1868.*	
	II	*Settlement, Ceded Provinces.*	*Rep., VIII of 1868.*	
	III	*Prisoners in Civil Jails .*	*Rep. (in Bengal), Ben. Act II of 1864; (elsewhere), XXVI of 1870.*	
	IV	*Special Commissions .*	*Rep., VIII of 1868.*	
	V	*Pergunnah of Gobardhan*	*Rep., XV of 1874.*	
	VI	*Fathipur Zila . .*	*Rep., XV of 1874.*	
	VII	*Benares Mint . .*	*Rep., VIII of 1868.*	
	VIII	*Contraband Opium .*	*Rep., XXI of 1856.*	
	IX	*Board of Customs .*	*Rep., XXIX of 1871.*	
	X	*Salt . . . .*	*Rep. (in Bengal), Ben. Act VII of 1864, s. 2; (elsewhere), VIII of 1875.*	
	XI	*Native Law-officers .*	*Rep., XI of 1864.*	
	XII	*Stamps, Calcutta . .*	*Rep., XXXVI of 1860.*	
1827	I	*Criminal law, Bhágalpur*	*Rep., XXIX of 1871.*	
	II	*Criminal trials, Bareli .*	*Rep., VIII of 1868.*	
	III	Extortion by Native Officers.	Rep., in part, XVI of 1874, s. 1; XII of 1876, s. 1.	239
	IV	*Sadr Amins . . .*	*Rep., X of 1861.*	
	V	Management of estates under attachment.	Rep., in part, XVI of 1874, s. 1. Amended (in C. P.), XX of 1875, s. 3.	239
1828	I	*Commutation of sentences of certain convicts.*	*Rep., XVII of 1862.*	

[a] Ben. Reg. XX of 1825 is possibly still in force in the Chota Nagpore Division; it has, however, not been reprinted in the Code.

PART I.—TABLE OF ALL BENGAL REGULATIONS—*contd.*

Year.	No.	Subject or short title.	Repeals and amendments.	Page.
1828—*contd.*	II	*Rescinding parts of Reg. I of 1799.*	*Rep., VIII of 1868.*	
	III	Special Commissioners .	Rep. in part, XII of 1873, s. 1; XVI of 1874, s. 1; XII of 1876, s. 1. Rep. (in N.-W. P.), XIX of 1873, s. 2; (in Assam), Reg. I of 1886, s. 2.	240
	IV	Power of Collectors in making or revising settlements.	Rep. in part, XVI of 1874, s. 1; XII of 1876, s. 1; Ben. Reg. IX of 1833, s. 4. Rep. (in N.-W. P.), XIX of 1873, s. 2; (in Assam), Reg. I of 1886, s. 2.	260
	V	*Awards of Military Courts.*	*Rep., XI of 1841.*	
	VI	*Explaining Reg. II of 1823.*	*Rep., XVII of 1862.*	
	VII	Rájá of Benares . .	Rep., in part, and amended, XIV of 1881. Printed, N.-W. P. Code.	
	VIII	*Magistrates' powers* .	*Rep., XVII of 1862.*	
	IX	*Pauper-appeals* . .	*Rep., XXIX of 1871.*	
1829	I	Board of Revenue: Administration of justice.	Rep., in part, III of 1835, s. 1; XVI of 1874, s. 1; Ben. Reg. I of 1830, s. 2; Ben. Reg. VI of 1831, s. 8; Ben. Reg. X of 1831, s. 4. Rep. (in N.-W. P.), XIX of 1873, s. 2; (in Assam), Reg. I of 1886, s. 2.	261

PART I.—TABLE OF ALL BENGAL REGULATIONS—*contd.*

Year.	No.	Subject or short title.	Repeals and amendments.	Page.
1829—*contd.*	II	*Orders of Magistrates under Reg. XV of 1824.*	*Rep., IV of 1840.*	
	III	*Sadr Diwáni and Nizámat Adálat.*	*Rep., XXIX of 1871.*	
	IV	*Appeals under Reg. III of 1828.*	*Rep., XII of 1876.*	
	V	*Repealing in part Regs. X of 1817 and XXI of 1825.*	*Rep., XV of 1874.*	
	VI	*Powers of Magistrates* .	*Rep., XVII of 1862.*	
	VII	*Statements by civil and criminal authorities.*	*Rep., XVII of 1862.*	
	VIII	*Amending Regs. V of 1809 and I of 1822.*	*Rep., I of 1849.*	
	IX	*Commercial Agents* .	*Rep., VIII of 1868.*	
	X	*Stamps* . . .	*Rep., XXXVI of 1860.*	
	XI	*Embankments* . .	*Rep.* (*in Bengal*), *XXXII of 1855*; (*in N.-W. P.*), *XIX of 1873*; (*elsewhere*), *XII of 1876.*	
	XII	*Modifying Reg. XII of 1825.*	*Rep., XVII of 1862.*	
	XIII	*Legal Remembrancer* .	*Rep., VIII of 1868.*	
	XIV	*Security from foreign litigants.*	*Rep., X of 1861.*	
	XV	*Assessment of Customs-duties.*	*Rep., XVI of 1874.*	
	XVI	*Salt-duty* . . .	*Rep., XIV of 1843.*	
	XVII	Sati	Rep., in part, XVII of 1862, s. 2.	267
	XVIII	*Repealing Reg. IV of 1829, s. 3.*	*Rep., VIII of 1868.*	
1830	I	*Repealing Reg. I of 1829 in part.*	*Rep., VIII of 1868.*	
	II	*Foreign trade* . .	*Rep., XXIX of 1871.*	

PART I.—TABLE OF ALL BENGAL REGULATIONS—*contd.*

Year.	No.	Subject or short title.	How repealed or otherwise affected in Bengal by legislation. Repeals and amendments.	Page.
1830—*contd.*	III	*Customs-duties* . .	*Rep., XVI of 1874.*	
	IV	*Explaining Reg. I of 1829, s. 3.*	*Rep., XVII of 1862.*	
	V	Indigo-contracts . .	Rep., in part, XVI of 1835; III of 1857, s. 1; VIII of 1868, s. 1.	269
	VI	*Subsistence-allowance of debtors.*	*Rep., X of 1861.*	
	VII	*Interest on arrears of revenue.*	*Rep., XII of 1841.*	
	VIII	*Inquiries by Magistrates*	*Rep., XVII of 1862.*	
1831	I	*Repealing Reg. XVI of 1825, s. 3, cl. 2.*	*Rep., VIII of 1868.*	
	II	*Legalizing certain trials.*	*Rep., VIII of 1868.*	
	III	*Copper coinage* . .	*Rep., VIII of 1868.*	
	IV	*Amending Straits Reg. V of 1830.*	*Rep., XIV of 1851.*	
	V	*Munsifs and Sadr Amins and Principal Sadr Amins.*	*Rep., XVI of 1868.*	
	VI	Appellate Judges at Allahabad.	Rep., in part, XVII of 1862; VIII of 1868; XVI of 1874. Printed, N.-W. P. Code.	
	VII	*Jail-deliveries* . .	*Rep., VIII of 1868.*	
	VIII	*Summary suits for arrears of rent.*	*Rep., X of 1859.*	
	IX	*Sadr Diwáni and Nizámat Adálat.*	*Rep., VIII of 1868.*	
	X	*Revenue Board, North-Western Provinces.*	*Rep., XIX of 1873.*	
	XI	Police-powers of Tahsildárs, Ceded and Conquered Provinces.	Rep., in part, XVI of 1874; XII of 1876; and amended, XVI of 1854. Printed, N.-W. P. Code.	
1832	I	*Báji Rau's Jágir* . .	*Rep., IX of 1852.*	

PART I.—TABLE OF ALL BENGAL REGULATIONS—*contd.*

Year.	No.	Subject or short title.	Repeals and amendments.	Page.
1832—*contd.*	II	*Criminal Procedure* .	*Rep., VIII of 1868.*	
	III	*Slavery* . . .	*Rep., VIII of 1868.*	
	IV	*Explaining Reg. X of 1819, s. 41.*	*Rep., VIII of 1875.*	
	V	*Delhi territory* . .	*Rep., XII of 1876.*	
	VI	*Native Assessors* . .	*Rep., XVI of 1874.*	
	VII	*Modifying Reg. V of 1831.*	*Rep., VI of 1871.*	
	VIII	*Repealing Reg. XIV of 1814.*	*Rep., XV of 1874.*	
1833	I	*Board of Revenue, Allahabad.*	*Rep., VIII of 1875.*	
	II	*Provincial Courts of Appeal.*	*Rep., VIII of 1868.*	
	III	*Registry of Imports and Exports, Straits Settlements.*	*Rep., in part, XXII of 1855.*	
	IV	Convict labourers . .	Rep. (locally), XXVI of 1870	270
	V	*District of Dacca* . .	*Rep., XV of 1874.*	
	VI	*Customs-duties* . .	*Rep., XVI of 1874.*	
	VII	*Rupees: Unit of weight* .	*Rep., VIII of 1868.*	
	VIII	*Additional Judges* . .	*Rep., VI of 1871.*	
	IX	Settlement-Officers; Revenue; Málikána.	Rep., in part, X of 1873, s. 2; XVI of 1874, s. 1; (in Bengal), X of 1859, s. 1; (in N.-W. P.), XIX of 1873, s. 2. Amended (in N.-W. P.), XIX of 1886, s. 1. Rep. (in Assam), Reg. I of 1886, s. 2.	271
	X	*Sale of Spirits of European manufacture (Straits).*	*Rep., XIV of 1851.*	
	XI	*Pawnbrokers' shops (Straits).*	*Rep., XL of 1850.*	

PART I.—TABLE OF ALL BENGAL REGULATIONS—*concld.*

Year.	No.	Subject or short title.	Repeals and amendments.	Page.
1833—*contd.*	XII	*Pleaders* . . .	*Rep., I of 1846.*	
	XIII	*Zilas of Rámgarh, Jungle Maháls and Midnapore.*	*Rep., XII of 1876.*	
1834	1	*Town-duties, Calcutta* .	*Rep., VIII of 1868.*	
	II	*Abolition of corporal punishment.*	*Rep., in part, XVII of 1862. Residue rep. (in Bengal), Ben. Act II of 1864; (elsewhere), XXVI of 1870.*	

PART II.—LOCAL ACTS OF THE GOVERNOR GENERAL IN COUNCIL IN FORCE IN BENGAL.

[*Note.*—For *repealed* Local Acts, see the Chronological Tables published with the volumes of Unrepealed General Acts of the Governor General in Council.]

Year.	No.	Subject or short title.	Repeals and amendments affecting Bengal or Assam.	Page.
1836	X	Indigo-contracts . .	Rep., in part, VIII of 1868, s. 1; XIV of 1870, s. 1; XVI of 1874, s. 1.	275
„	XXI	Creating Zilas . .	Rep., in part, XVI of 1874, s. 1; Rep. (in Assam), Reg. I of 1886, s. 2.	276
1837	VI	Málguzárs, Cuttack .	Rep., in part, XIV of 1870, s. 1; XVI of 1874, s. 1.	276
1839	XXVII	Execution of Decrees of Judge of 24-Pergunnahs.	.....	277
1841	XII	Sales of Land for Revenue-arrears.	Rep., in part, I of 1845, s. 1; XIV of 1870, s. 1; XVI of 1874, s. 1. Rep. (in Assam), Reg. I of 1886, s. 2.	278
1847	IX	Assessment of new Lands.	Rep., in part, XIV of 1870, s. 1; XVI of 1874, s. 1; Ben. Act IV of 1868, s. 1. Rep. (in Assam), Reg. I of 1886, s. 2.	278
1848	XX	Enforcement of attendance of Landholders.	Rep. (in Assam), Reg. I of 1886, s. 2.	280
1850	XX	Tributary Mahals, Cuttack	.....	281
„	XXIII	Land-revenue, Calcutta .	Rep., in part, and amended, XV of 1882, s. 3.	282
„	XXV	Forfeiture of Deposits on Land-sales.	Rep., in part, X of 1861; XIV of 1870, s. 1.	284
„	XXXIII	Sale of Patni-tenures .	Rep., in part, XIV of 1870, s. 1; XVI of 1874, s. 1.	285
1838	V	Bengal Bonded Warehouse	Rep. in part V of 1854 XII of 1891 not repealed	

PART II.—LOCAL ACTS OF THE GOVERNOR GENERAL IN COUNCIL IN FORCE IN BENGAL—*contd.*

Year.	No.	Subject or short title.	Repeals and amendments affecting Bengal or Assam.	Page.
1850	XLIV	Board of Revenue . .	Rep., in part, XIV of 1870, s. 1. Rep. (in Assam), Reg. I of 1886, s. 2.	285
1853	VI	Summary suits for Rent-arrears.	Rep., in part, XII of 1873, s. 1; Ben. Act VIII of 1865, s. 2.	286
„	XIX	Recusant Witnesses .	Rep., in part, X of 1855, s. 1; X of 1861, s. 1; I of 1872, s. 2.	289
1854	XX	Amending Regulation XIII of 1833.	.....	290
1855	XXXII	Embankments . .	Rep., in part, XIV of 1870, s. 1; XVI of 1874, s. 1. Rep. (locally), Ben. Act VI of 1873.	290
„	XXXVII	Sonthal District . .	Rep., in part, XIV of 1870, s. 1. Amended, X of 1857, s. 1. Rep., XIV of 1874, s. 2 (when notified).	300
1856	XII	Civil Court Amins . .	Rep., in part, X of 1861, s. 1; XIV of 1870, s. 1; X of 1873, s. 2; XII of 1873, s. 1.	303
„	XVIII	Collector of Calcutta .	Rep., in part, XVIII of 1869, s. 2.	305
„	XXII	Tolls on Karatoyá River .	.....	306
1857	II	Calcutta University .	Rep., in part, XII of 1876, s. 1.	309
	X	Sonthal Districts . .	Rep., in part, XIV of 1870, s. 1. Rep., XIV of 1874, s. 2 (when notified).	315
„	XIII	Opium	Rep., in part, XIV of 1870, s. 1; I of 1878, s. 2.	316
„	XXI	Howrah . . .	Rep., in part, XVI of 1874, s. 1; Ben. Act III of 1864, s. 5; Ben. Act V of 1876, s. 2; Ben. Act III of 1884, s. 2; (locally), Ben. Act I of 1864, s. 1.	323

PART II.—LOCAL ACTS OF THE GOVERNOR GENERAL IN COUNCIL IN FORCE IN BENGAL—*contd.*

Year.	No.	Subject or short title.	Repeals and amendments affecting Bengal or Assam.	Page.
1857—*contd.*	XXI —*contd.*	Howrah . . .	Rep. (locally), Ben. Act II of 1866, s. 52; Ben. Act VIII of 1868, s. 1.	
1858	XXXI	Alluvion Land, Bengal .	Rep. (in Assam), Reg. I of 1886, s. 2.	330
„	XL	Minors	Rep., in part, XIV of 1870, s. 1; Ben. Act IV of 1870, s. 86; Ben. Act IX of 1879, s. 2.	332
1859	V	Ghátwáli Lands, Beerbhoom	.....	337
„	X	Rent	Rep., in part, XXXVI of 1860, s. 1; VII of 1870, s. 2; XIV of 1870, s. 1; XX of 1865, s. 3; Ben. Act VI of 1862, s. 1.	338
			Rep. (locally in Bengal), Ben. Act VIII of 1869, s. 107.	
			Rep. (N. W. P.), XVIII of 1873, s. 2.	
			Rep. (locally in Bengal), Ben. Act I of 1879, s. 3.	
			Rep. (in Bengal, except Calcutta, Orissa and Scheduled Districts), VIII of 1885, s. 2.	
„	XI	Sales of land for arrears of Revenue.	Rep., in part, XIV of 1870, s. 1; Ben. Act III of 1881, s. 2; and amended, Ben. Act III of 1862; Ben. Act VII of 1868, s. 29.	378
			Amended, Ben. Act VII of 1880.	
			Rep. (in Assam), Reg. I of 1886, s. 2.	
„	XII	Pilots	Rep., in part, XIV of 1870, s. 1; X of 1873, s. 2.	400
			Amended, VI of 1883, s. 1.	
1860	XXII	Chittagong Hill Tracts .	Rep., in part, XVI of 1874, s. 1.	407
			Amended, Ben. Act IV of 1863, s. 1.	

PART II.—LOCAL ACTS OF THE GOVERNOR GENERAL IN COUNCIL IN FORCE IN BENGAL—*contd.*

How repealed or otherwise affected by legislation

Year.	No.	Subject or short title.	Repeals and amendments affecting in Bengal or Assam.	Page.
1860—*contd.*	XXII —*contd.*	Chittagong Hill Tracts .	Rep., XIV of 1874, s. 2 (when notified).	
1867	XIX	Administration of justice, Darjeeling.	Rep., in part, XVI of 1874, s. 1.	409
1868	XIII	King of Oudh	Repealed in part XIV of 1870 not reprinted	
1869	XVI	Bhootan Dvars . .	Rep., in part, XVI of 1874, s. 1.	410
1871	XIX	Sessions Judges . .	Rep., in part, X of 1872, s. 2.	412
„	XXVII	Criminal Tribes and Eunuchs.	Rep., in part, XVI of 1874, s. 1; XII of 1876, s. 1. Amended and extended to Bengal, VII of 1876.	413
1873	XVII	Nawab Nazims Debts	— Not reprinted	
1876	VI	Chota Nagpore Encumbered Estates.	Rep., in part, and amended, V of 1884. Applied to the Deo Estate with modifications, IX of 1886.	421
„	VII	Criminal Tribes and Eunuchs (amending Act XXVII of 1871).	.....	431
„	XXII	Indian Museum . .	Amended, IV of 1887.	431
1879	IX	Burma Coast-lights .	Rep. in part X of 1889	436
„	XIX	Raipur and Khattra Laws	Rep. in part XII of 1891	441
1881	VII	Cess (amending Ben. Act IX of 1880).	.....	441
„	XIII	Fort William . .	Rep. in part XII of 1891	442
„	XXV	Banki Laws . . .	Rep. in part XII of 1891	445
1882	I	Assam Labour Inland Emigration .	Rep. in part XII of 1891 Rep. in part, & amended, VII of 1893	446
1883	VI	Pilots (amending Act XII of 1859).	.....	502
1884	V	Amending Chota Nagpore Encumbered Estates Act, VI of 1876.	Rep. in part XII of 1891	502
1885	VIII	Tenancy . . .	Amended, VIII of 1886. Ben. Act V of 1894 Ben. Act III of 1898	503
Act IX of 1885 is published in the volume of general Acts for 1885—88	IX	Amending Bengal Excise Act, VII (B. C.) of 1878.	.....	579
1886	VIII	Amending Bengal Tenancy Act, VIII of 1885.	.....	580
	IX	Deo Estate		not reprinted
1871	IV	Coroners		
1881	X	Coroners		
1889	V	Coroners (amending act IV of 1871		

Part II — Local Acts of the Governor-General in Council in force in Bengal — Concluded

Year	No	Subject	How repealed or otherwise affected in Bengal by Legislation	Part of Supplement to
1892	IV	Amending Bengal Court of Wards Act, IX (B.C.) of 1879		Part II
"	V	Bengal Military Police Act, 1892		do
1893	II	Dorahat Estate		do
"	VII	Inland Emigration		do
"	XI	Tributary Mahals of Orissa		

PART II.—LOCAL ACTS OF THE GOVERNOR GENERAL IN COUNCIL IN FORCE IN BENGAL—*concld.*

How repealed or otherwise affected in

Year.	No.	Subject or short title.	Repeals and amendments affecting Bengal or Assam by legislation.	Page.
1887	IV	Indian Museum (amending Act XXII of 1876).	Rep. in part, XII of 1891	580
"	XII	Civil Courts in Bengal, North-Western Provinces and Assam.	Rep. in part, VIII of 1889, VIII of 1890, XII of 1891	582
"	XIX	King of Oudh's Estate	Supplemented by XIV of 1888	
1888	XII	Supplementing Bombay and Calcutta Municipal Acts.	not reprinted	594
"	XIV	King of Oudh's Estate	not reprinted	

PART III.—REGULATIONS MADE UNDER 33 VICTORIA, CAP. 3, for IN FORCE IN BENGAL.

How repealed or otherwise affected in

Year.	No.	Subject or short title.	Repeals and amendments affecting Bengal or Assam by legislation.	Page.
			Rep. in part, I of 1894	
1872	III	Sonthal Pergunnahs' Settlement.	Rep. in part and amended, Reg. II of 1886, ss. 4, 5 and 28.	597
			Amended, Reg. III of 1886.	Rep. in part and amended Reg. V of 1893, ss. 2, 24.
1873	V	Bengal Eastern Frontier	Rep. in part (in Assam), Reg. I of 1880, s. 1. Rep. (Gáro Hills), Reg. I of 1876, s. 2. Superseded (Gáro Hills), Reg. I of 1882.	606
1881	III	Chittagong Hill Tracts Frontier Police . .	.....	609
1886	II	Sonthal Pergunnahs' Rent	.....	613
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THE BENGAL CODE.

PART I:

BENGAL REGULATIONS IN FORCE IN BENGAL.

REGULATION I OF 1793.[a]

Passed on the 1st May, 1793.

A Regulation for enacting into a Regulation certain Articles of a Proclamation bearing date the 22nd March, 1793.

Preamble

1. The following articles of the proclamation relative to the limitation of the public demand upon the lands, addressed by the Governor General in Council to the zamindárs, independent taluqdárs and other actual proprietors of land paying revenue to Government, in the Provinces of Bengal, Behar and Orissa, are hereby enacted into a Regulation, which is to have force and effect from the 22nd March, 1793, the date of the proclamation.

PROCLAMATION.

Decennial settlement declared conditionally permanent by original Regulations.

2. Art. I.—In the original Regulations for the decennial settlement of the public revenues of Bengal, Behar and Orissa, passed for those Provinces respectively on the 18th September, 1789, the 25th November, 1789, and the 10th February, 1790, it was notified to the proprietors of land, with or on behalf of whom a settlement might be concluded, that the jama assessed upon their lands under those Regulations would be continued after the expiration of the ten years, and remain unalterable for ever, provided such continuance should meet with the approbation of the Honourable Court of Directors for the affairs of the East India Company, and not otherwise.

Power to declare jama assessed upon

3. Art. II.—The Marquis Cornwallis, Knight of the Most Noble Order of the Garter, Governor General in Council, now notifies to all zamíndárs, inde-

[a] This Regulation has been declared to apply to the whole of Bengal, except the Scheduled Districts, by Act XV of 1874, s. 6. It has also been declared in force by Reg III of 1872, s. 3, as amended by Reg. III of 1886, s. 2, in the Sonthal Pergunnahs, and under s. 3 of the Scheduled Districts Act, 1874, in West Jalpáiguri, the districts of Hazáribágh and Manbhoom and Pergunnah Dhalbhoom—see *infra*, pp. 624, 645 and 646, also in the district of Sylhet—see Appendix to Assam Supplement.

lands under those Regulations, fixed for ever.

pendent taluqdárs and other actual proprietors of land paying revenue to Government, in the provinces of Bengal, Behar and Orissa, that he has been empowered by the Honourable Court of Directors for the affairs of the East India Company to declare the jama, which has been or may be assessed upon their lands under the Regulations above-mentioned, fixed for ever.

Jama assessed upon lands of proprietors with whom settlement concluded, fixed for ever.

4. Art. III.—The Governor General in Council accordingly declares to the zamíndárs, independent taluqdárs and other actual proprietors of land, with or on behalf of whom a settlement has been concluded under the Regulations above-mentioned, that at the expiration of the term of the settlement no alteration will be made in the assessment which they have respectively engaged to pay, but that they, and their heirs and lawful successors, will be allowed to hold their estates at such assessment for ever.

Jama hereafter agreed to by proprietors whose lands are held khás, or let in farm, fixed for ever.

5. Art. IV.—The lands of some zamindárs, independent taluqdárs and other actual proprietors of land, having been held khás, or let in farm, in consequence of their refusing to pay the assessment required of them under the Regulations above-mentioned, the Governor General in Council now notifies to the zamíndárs, independent taluqdárs and other actual proprietors of land whose lands are held khás that they shall be restored to the management of their lands, upon their agreeing to the payment of the assessment which has been or may be required of them, in conformity to the Regulations above-mentioned, and that no alteration shall afterwards be made in that assessment, but that they, and their heirs and lawful successors, shall be permitted to hold their respective estates at such assessment for ever:

and he declares to the zamindárs, independent taluqdárs and other actual proprietors of land, whose lands have been let in farm, that they shall not regain possession of their lands before the expiration of the period for which they have been farmed (unless the farmers shall voluntarily consent to make over to them the remaining term of their lease, and the Governor General in Council shall approve of the transfer), but that at the expiration of that period, upon their agreeing to the payment of the assessment which may be required of them, they shall be reinstated, and that no alteration shall afterwards be made in that assessment, but that they, and their heirs and lawful successors, shall be allowed to hold their respective estates at such assessment for ever.

Jama of lands belonging to Government, but transferred to individuals, fixed for ever.

6. Art. V.—In the event of the proprietary right in lands that are, or may become, the property of Government being transferred to individuals, such individuals, and their heirs and lawful successors, shall be permitted to hold the lands at the assessment at which they may be transferred for ever.

7. Art. VI.—It is well known to the zamindárs, independent taluqdárs and other actual proprietors of land, as well as to the inhabitants of Bengal, Behar and Orissa, in general, that from the earliest times until the present period the public assessment upon the land has never been fixed, but that, according to established usage and custom, the rulers of these provinces have from time to time demanded an increase of assessment from the proprietors of land; and that, for the purpose of obtaining this increase, not only frequent investigations have been made to ascertain the actual produce of their estates, but that it has been the practice to deprive them of the management of their lands, and either to let them in farm, or to appoint officers on the part of Government to collect the assessment immediately from the raiyats.

Assessment in former times liable to variation at discretion of Government.

The Honourable Court of Directors, considering these usages and measures to be detrimental to the prosperity of the country, have, with a view to promote the future ease and happiness of the people, authorized the foregoing declarations; and the zamindárs, independent taluqdárs and other actual proprietors of land, with or on behalf of whom a settlement has been or may be concluded, are to consider these orders fixing the amount of the assessment as irrevocable, and not liable to alteration by any persons whom the Court of Directors may hereafter appoint to the administration of their affairs in this country.

Motives of Court of Directors for abolishing usage and fixing assessment.

The Governor General in Council trusts that the proprietors of land, sensible of the benefits conferred upon them by the public assessment being fixed for ever, will exert themselves in the cultivation of their lands, under the certainty that they will enjoy exclusively the fruits of their own good management and industry, and that no demand will ever be made upon them, or their heirs or successors, by the present or any future Government, for an augmentation of the public assessment in consequence of the improvement of their respective estates.

Proprietors expected to improve estates.

To discharge the revenues at the stipulated periods without delay or evasion, and to conduct themselves with good faith and moderation towards their dependent taluqdárs and raiyats, are duties at all times indispensably required from the proprietors of land, and a strict observance of those duties is now more than ever incumbent upon them, in return for the benefits which they will themselves derive from the orders now issued.

Conduct to be observed by proprietors towards dependant taluqdárs and raiyats.

The Governor General in Council therefore expects that the proprietors of land will not only act in this manner themselves towards their dependent taluqdárs and raiyats, but also enjoin the strictest adherence to the same principles in the persons whom they may appoint to collect the rents from them.

He further expects that, without deviating from this line of conduct, they

No claims for

remissions or suspensions.

will regularly discharge the revenue in all seasons; and he accordingly notifies to them, that, in future, no claims or applications for suspensions or remissions, on account of drought, inundation or other calamity of season, will be attended to, but that in the event of any zamindár, independent taluqdár or other actual proprietor of land, with or on behalf of whom a settlement has been or may be concluded, or his or her heirs or successors, failing in the punctual discharge of the public revenue which has been or may be assessed upon their lands under the above-mentioned Regulations, a sale of the whole of the lands of the defaulter, or such portion of them as may be sufficient to make good the arrear, will positively and invariably take place.

Sale of lands for arrears.

8. Art. VII.—To prevent any misconstruction of the foregoing articles the Governor General in Council thinks it necessary to make the following declarations to the zamindárs, independent taluqdárs and other actual proprietors of land.

Regulations, for protection of raiyats, &c.

First.—It being the duty of the ruling power to protect all classes of people, and more particularly those who from their situation are most helpless, the Governor General in Council will, whenever he may deem it proper, enact such Regulations as he may think necessary for the protection and welfare of the dependent taluqdárs, raiyats and other cultivators of the soil; and no zamindár, independent taluqdár or other actual proprietor of land shall be entitled on this account to make any objection to the discharge of the fixed assessment which they have respectively agreed to pay.

Right of Government to all internal duties,

Second.—The Governor General in Council having, on the 28th July, 1790, directed the sáir collections to be abolished, a full compensation was granted to the proprietors of land for the loss of revenue sustained by them in consequence of this abolition; and he now declares that, if he should hereafter think it proper to re-establish the sáir collections, or any other internal duties, and to appoint officers on the part of Government to collect them, no proprietor of land will be admitted to any participation thereof, or be entitled to make any claims for remissions of assessment on that account.

and to jama on alienated lands.

Third.—The Governor General in Council will impose such assessment as he may deem equitable on all lands at present alienated and paying no public revenue which have been or may be proved to be held under illegal or invalid titles.

The assessment so imposed will belong to Government, and no proprietor of land will be entitled to any part of it.

Resumption of police allowances to proprietors.

Fourth.—The jama of those zamindárs, independent taluqdárs and other actual proprietors of land, which is declared fixed in the foregoing articles, is to be considered entirely unconnected with, and exclusive of, any allowances

which have been made to them in the adjustment of their jama, for keeping up thánas or police-establishments, and also of the produce of any lands which they may have been permitted to appropriate for the same purpose; and the Governor General in Council reserves to himself the option of resuming the whole or part of such allowances, or produce of such lands, according as he may think proper, in consequence of his having exonerated the proprietors of land from the charge of keeping the peace, and appointed officers on the part of Government to superintend the police of the country.

The Governor General in Council, however, declares that the allowances or produce of lands which may be resumed will be appropriated to no other purpose but that of defraying the expense of the police; and that instructions will be sent to the Collectors not to add such allowances, or the produce of such lands, to the jama of the proprietors of land, but to collect the amount from them separately.

Estates of disqualified proprietors not liable to sale for arrears.

Fifth.—Nothing contained in this proclamation shall be construed to render the lands of the several descriptions of disqualified proprietors, specified in the first article of the Regulations regarding disqualified landholders, passed on the 15th July, 1791, liable to sale for any arrears which have accrued or may accrue on the fixed jama that has been or may be assessed upon their lands under the above-mentioned Regulations for the decennial settlement: provided that such arrears have accrued or may accrue during the time that they have been or may be dispossessed of the management of their lands, under the said Regulations of the 15th July, 1791.

It is to be understood, however, that whenever all or any of the descriptions of disqualified landholders, specified in the first article of the last-mentioned Regulations, shall be permitted to assume or retain the management of their lands, in consequence of the ground of their disqualification no longer existing, or of the Governor General in Council dispensing with, altering or abolishing those Regulations, the lands of such proprietors will be held responsible for the payment of the fixed jama that has been or may be assessed thereon, from the time that the management may devolve upon them, in the same manner as the lands of all actual proprietors of land who are declared qualified for the management of their estates, and also of all actual proprietors who are unqualified for such management, by natural or other disabilities, but do not come within the descriptions of disqualified landholders specified in the first article of the Regulations of the 15th July, 1791, are and will be held answerable, for any arrears that are or may become due from them, on the fixed jama which they, or any persons on their behalf, have engaged or may engage to pay, under the above-mentioned Regulations, for the decennial settlement.

[a] But see Ben. Act IX of 1879, S. 23A in Vol. II

Proprietors may transfer lands without sanction of Government.

9. Art. VIII.—That no doubt may be entertained whether proprietors of land are entitled, under the existing Regulations, to dispose of their estates without the previous sanction of Government, the Governor General in Council notifies to the zamindárs, independent taluqdárs and other actual proprietors of land that they are privileged to transfer to whomsoever they may think proper, by sale, gift or otherwise, their proprietary rights in the whole or any portion of their respective estates, without applying to Government for its sanction to the transfer, and that all such transfers will be held valid:

Proviso.

Provided that they be conformable to the Muhammadan or the Hindu laws (according as the religious persuasions of the parties to each transaction may render the validity of it determinable by the former or the latter Code), and that they be not repugnant to any Regulations now in force, which have been passed by the British administrations, or to any Regulations that they may hereafter enact.

Rules for apportioning fixed jama on portions of estates in event of sale or transfer, and on shares of estates.

10.* Art. IX.—From the limitation of the public demand upon the lands, the nett income, and consequently the value (independent of increase of rent obtainable by improvements), of any landed property, for the assessment on which a distinct engagement has been or may be entered into, between Government and the proprietor, or that may be separately assessed, although included in one engagement with other estates belonging to the same proprietor, and which may be offered for public or private sale entire, will always be ascertainable by a comparison of the amount of the fixed jama assessed upon it (which, agreeable to the foregoing declarations, is to remain unalterable for ever, to whomsoever the property may be transferred), with the whole of its produce, allowing for the charges of management.

But it is also essential that a notification should be made of the principles upon which the fixed assessment charged upon any such estate will be apportioned on the several divisions of it, in the event of the whole of it being transferred by public or private sale, or otherwise, in two or more lots, or of a portion of it being transferred in one, or in two or more lots, or of its being joint property, and a division of it being made amongst the proprietors; otherwise, from the want of a declared rule for estimating the proportion of the fixed jama with which the several shares would be chargeable in such cases, the real value of each share would be uncertain, and consequently the benefits expected to result from fixing the public assessment upon the lands would be but partially obtained.

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* So much of s. 10 as relates to the adjustment of the jama on lands sold in satisfaction of decrees has been repealed by Act IV of 1845, s. 1.

The Governor General in Council has accordingly prescribed the following rules for apportioning the fixed assessment in the several cases above-mentioned; but as Government might sustain a considerable loss of revenue by disproportionate allotments of the assessment, were the apportioning of it, in any of the cases above specified, to be left to the proprietors, he requires that all such transfers or divisions as may be made by the private act of the parties themselves be notified to the Collector of the revenue of the zila in which the lands may be situated, or such other officer as Government may in future prescribe, in order that the fixed jama, assessed upon the whole estate, may be apportioned on the several shares in the manner hereafter directed, and that the names of the proprietors of each share and the jama charged thereon may be entered upon the public registers, and that separate engagements for the payment of the jama assessed upon each share may be executed by the proprietors, who will thenceforward be considered as actual proprietors of land.

And the Governor General in Council declares that, if the parties to such transfers or divisions shall omit to notify them to the Collector of the revenue of the zila or such other officer as may be hereafter prescribed, for the purposes before-mentioned, the whole of such estate will be held responsible to Government for the discharge of the fixed jama assessed upon it, in the same manner as if no such transfer or division had ever taken place.

The Governor General in Council thinks it necessary further to notify, in elucidation of the declarations contained in this article (which are conformable to the principles of the existing Regulations), that if any zamindár, independent taluqdár or other actual proprietor of land shall dispose of a portion of his or her lands as a dependent taluq, the jama which may be stipulated to be paid by the dependent taluqdár will not be entered upon the records of Government, nor will the transfer exempt such lands from being answerable, in common with the remainder of the estate, for the payment of the public revenue assessed upon the whole of it, in the event of the proprietor, or his or her heirs or successors, falling in arrear from any cause whatever, nor will it be allowed, in any case, to affect the rights or claims of Government, any more than if it had never taken place.

First.—In the event of the whole of the lands of a zamindár, independent taluqdár or other actual proprietor of land, with or on behalf of whom a settlement has been, or may be concluded, under the Regulations above-mentioned, being exposed to public sale by the order of the Governor General in Council, for the discharge of arrears of assessment, or in consequence of the decision of a Court of Justice, in two or more lots, the assessment upon each lot shall be fixed at an amount which shall bear the same proportion to its actual

produce[a] as the fixed assessment upon the whole of the lands sold may bear to the whole of their actual produce.

This produce shall be ascertained in the mode that is or may be prescribed by the existing Regulations, or such other Regulations as the Governor General in Council may hereafter adopt, and the purchaser or purchasers of such lands, and his or her or their heirs and lawful successors, shall hold them at the jama at which they may be so purchased, for ever.

Second.—When a portion of the lands of a zamindár, independent taluqdár or other actual proprietor of land, with or on behalf of whom a settlement has been or may be concluded, under the Regulations before-mentioned, shall be exposed to public sale, by order of the Governor General in Council, for the liquidation of arrears of assessment, or pursuant to the decision of a Court of Justice, the assessment upon such lands, if disposed of in one lot, shall be fixed at an amount which shall bear the same proportion to their actual produce[a] as the fixed assessment upon the whole of the lands of such proprietor, including those disposed of, may bear to the whole of their actual produce.[a]

If the lands sold shall be disposed of in two or more lots, the assessment upon each lot shall be fixed at an amount which shall bear the same proportion to its actual produce[a] as the fixed assessment upon the whole of the lands of such proprietor, including those sold, may bear to the whole of their actual produce.[a]

The actual produce[a] of the whole of the lands of such proprietor, whether the portion of them which may be sold be disposed of in one or in two or more lots, shall be ascertained in the mode that is or may be prescribed by the existing Regulations, or such other Regulations as the Governor General in Council may hereafter enact, and the purchaser or purchasers of such lands, and his or her or their heirs or successors, will be allowed to hold them at the jama at which they may be so purchased for ever; and the remainder of the public jama, which will consequently be payable by the former proprietor of the whole estate, on account of the portion of it that may be left in his or her possession, will continue unalterable for ever.

Third.—When a zamindár, independent taluqdár or other actual proprietor of land, with or on behalf of whom a settlement has been or may be concluded, shall transfer the whole of his or her estate, in two or more distinct portions, to two or more persons, or a portion thereof to one person, or to two or more persons in joint property, by private sale, gift or otherwise, the assessment upon each distinct portion of such estate so transferred shall be fixed at an

[a] For meaning of "actual produce" see Ben. Reg. I of 1801, s. 8, *infra*, p. 70.

amount which shall bear the same proportion to its actual produce[a] as the assessment upon the whole of the estate of the transferring proprietor, of which the whole or a portion may be so transferred, may bear to the whole of its actual produce.[a]

This produce shall be ascertained in the mode that is or may be prescribed in the existing Regulations, or such other Regulations as Government may hereafter adopt, and the person or persons to whom such lands may be transferred, and his or her or their heirs and lawful successors, shall hold them at the jama at which they may be so transferred, for ever: and, where only a portion of such estates shall be transferred, the remainder of the public jama which will consequently be payable by the former proprietor of the whole estates on account of the lands that may remain in his or her possession shall be continued unalterable for ever.

Fourth.—Whenever a division shall be made of lands, the settlement of which has been or may be concluded with or on behalf of the proprietor or proprietors, and that are or may become the joint property of two or more persons, the assessment upon each share shall be fixed at an amount which shall bear the same proportion to its actual produce as the fixed jama assessed upon the whole of the estate divided may bear to the whole of its actual produce.

This produce shall be ascertained in the mode that is or may be prescribed by the existing Regulations, or such other Regulations as the Governor General in Council may hereafter adopt, and the sharers, and their heirs and lawful successors, shall hold their respective shares at the jama which may be so assessed upon them, for ever.

Adjusting jama of lands held khás or let in farm.

11.[b] Art. X.—The following rules are prescribed respecting the adjustment of the assessment on the lands of zamindárs, independent taluqdárs and other actual proprietors of land, whose lands are or may be held khás or let in farm, in the event of their being disposed of by public sale, or transferred by any private act of the proprietor, or of their being joint property, and a division of them taking place amongst the proprietors.

First.—If the whole, or a portion of the lands of a zamindár, independent taluqdár or other actual proprietor of land, who may not have agreed to the payment of the assessment proposed to him or her under the Regulations abovementioned, and whose lands are or may be held khás or let in farm, shall be exposed to public sale, in one or in two or more lots (pursuant to the decree

[a] For meaning of "actual produce" see Ben. Reg. I of 1801, s. 8, *infra*, p. 70.
[b] So much of s. 11 as relates to the adjustment of the jama on lands sold in satisfaction of decrees has been repealed by Act IV of 1846, s. 1.

of a Court of Justice), such lands, if khás, shall be disposed of at whatever assessment the Governor General in Council may deem equitable, and the purchaser or purchasers of such lands, and his or her or their heirs and lawful successors, shall hold the lands at the assessment at which they may be so purchased, for ever.

If the lands, at the time of their being exposed to sale, shall be held in farm, and shall be put up in one or in two or more lots, they shall be disposed of under the following conditions:—

The purchaser or purchasers shall receive, during the unexpired part of the term of the lease of the farmer, whatever such proprietor shall have been entitled to receive, in virtue of his or her proprietary rights, on account of the lands so purchased, and such purchaser or purchasers shall engage to pay, at the expiration of the lease of the farmer, such assessment on account of the lands as Government may deem equitable.

The sum to be received by the purchaser or purchasers during the unexpired part of the term of the lease of the farmer, and the jama to be paid by such purchaser or purchasers after the expiration of the lease, shall be specified at the time of the sale, and such purchaser or purchasers, and his or her or their heirs and lawful successors, shall be allowed to hold the lands at the assessment at which they may be so purchased, for ever.

Second.—If a zamindár, independent taluqdár or other actual proprietor of land, whose lands are or may be held khás or let in farm, shall transfer by private sale, gift or otherwise the whole or a portion of his or her lands in one or in two or more lots, the person or persons to whom the lands may be so transferred shall be entitled to receive from Government (if the lands are held khás), or from the farmer (if the lands are let in farm), the málikána to which the former proprietor was entitled on account of the lands so transferred.

Persons to whom such lands may be so transferred will stand in the same predicament as the zamindárs, independent taluqdárs or other actual proprietors of land mentioned in the fourth article, whose lands are held khás, or have been let in farm, in consequence of their refusing to pay the assessment required of them under the before-mentioned Regulations for the decennial settlement; and the declarations contained in that article are to be held applicable to them.

Third.—In the event of a division being made of lands that are or may become the joint property of two or more persons, and which are or may be held khás or let in farm, the proprietors of the several shares will stand in the same predicament, with regard to their respective shares, as the zamin-

dárs, independent taluqdárs and other actual proprietors of land specified in the fourth article, whose lands have been let in farm or are held khás, in consequence of their having refused to pay the assessment required of them under the before-mentioned Regulations for the decennial settlement; and the declarations contained in that article are to be considered applicable to them.

REGULATION II OF 1793.[a]

Passed on the 1st of May, 1793.

A Regulation for abolishing the Courts of Mál Adálat or Revenue Courts, and transferring the trial of the suits which were cognizable in those Courts to the Courts of Díwání Adálat; and prescribing Rules for the conduct of the Board of Revenue and the Collectors.

Preamble.

1. In the British territories in Bengal the greater part of the materials required for the numerous and valuable manufactures, and most of the other principal articles of export, are the produce of the lands: it follows that the commerce, and consequently the wealth of the country, must increase in proportion to the extension of its agriculture.

But it is not for commercial purposes alone that the encouragement of agriculture is essential to the welfare of these Provinces.

The Hindus, who form the body of the people, are compelled, by the dictates of religion, to depend solely upon the produce of the lands for subsistence; and the generality of such of the lower orders of the Natives as are not of that persuasion are, from habit or necessity, in a similar predicament.

The extensive failure or destruction of the crops that occasionally arises from drought or inundation is in consequence invariably followed by famine, the ravages of which are felt chiefly by the cultivators of the soil and the manufacturers, from whose labours the country derives both its subsistence and wealth.

Experience having evinced that adequate supplies of grain are not obtainable from abroad in seasons of scarcity, the country must necessarily continue

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[a] This Regulation has been declared to apply to the whole of Bengal, except the Scheduled Districts, by Act XV of 1874, s. 6, and under s. 3 of the Scheduled Districts Act, 1874, it has been declared in force in West Jalpáiguri, the districts of Hazáribágh, Lohardugga and Manbhoom and Pergunnah Dhalbhoom—see *infra*, pp. 625 and 647, also in the district of Sylhet—see Appendix to Assam Supplement.

So much of the Regulation as requires the appointment of diwáns in the different districts, or defines the duties of the diwáns, or relates in any other manner, directly or indirectly, to those offices, has been repealed by Ben. Reg. XV of 1813, s. 2.

subject to these calamities until the proprietors and cultivators of the lands shall have the means of increasing the number of the reservoirs, embankments and other artificial works, by which, to a great degree, the untimely cessation of the periodical rains may be provided against and the lands protected from inundation; and as a necessary consequence the stock of grain in the country at large shall always be sufficient to supply those occasional, but less extensive, deficiencies in the annual produce which may be expected to occur notwithstanding the adoption of the above precautions to obviate them.

To effect these improvements in agriculture, which must necessarily be followed by the increase of every article of produce, has accordingly been one of the primary objects to which the attention of the British Administration has been directed in its arrangements for the internal government of these Provinces.

As being the two fundamental measures essential to the attainment of it, the property in the soil has been declared to be vested in the landholders, and the revenue payable to Government from each estate has been fixed for ever.

These measures have at once rendered it the interest of the proprietors to improve their estates, and given them the means of raising the funds necessary for that purpose.

The property in the soil was never before formally declared to be vested in the landholders, nor were they allowed to transfer such rights as they did possess, or raise money upon the credit of their tenures, without the previous sanction of Government.

With respect to the public demand upon each estate, it was liable to annual or frequent variation at the discretion of Government.

The amount of it was fixed upon an estimate formed by the public officers of the aggregate of the rents payable by the raiyats or tenants for each bighá of land in cultivation, of which, after deducting the expenses of collection, ten-elevenths were usually considered as the right of the public and the remainder the share of the landholder.

Refusal to pay the sum required of him was followed by his removal from the management of his lands, and the public dues were either let in farm or collected by an officer of Government, and the above-mentioned share of the landholder, or such sum as special custom, or the orders of Government, might have fixed, was paid to him by the farmer or from the public treasury.

When the extension of cultivation was productive only of a heavier assessment, and even the possession of the property was uncertain, the hereditary landholder had little inducement to improve his estate, and monied men had no encouragement to embark their capital in the purchase or improvement of

land, whilst not only the profit, but the security for the capital itself, was so precarious.

The same causes, therefore, which prevented the improvement of land depreciated its value.

Further measures, however, are essential to the attainment of the important object above stated.

All questions between Government and the landholders respecting the assessment and collection of the public revenue, and disputed claims between the latter and their raiyats, or other persons concerned in the collection of their rents, have hitherto been cognizable in the Courts of Mál Adálat or Revenue Courts.

The Collectors of the Revenue preside in these Courts as Judges, and an appeal lies from their decision to the Board of Revenue, and from the decrees of that Board to the Governor General in Council in the Department of Revenue.

The proprietors can never consider the privileges which have been conferred upon them as secure, whilst the revenue-officers are vested with these judicial powers.

Exclusive of the objections arising to these Courts from their irregular, summary, and often *ex parte*, proceedings, and from the Collectors being obliged to suspend the exercise of their judicial functions whenever they interfere with their financial duties, it is obvious that, if the Regulations for assessing and collecting the public revenue are infringed, the revenue-officers themselves must be the aggressors, and that individuals who have been wronged by them in one capacity can never hope to obtain redress from them in another.

Their financial occupations equally disqualify them for administering the laws between the proprietors of land and their tenants.

Other security, therefore, must be given to landed property and to the rights attached to it before the desired improvements in agriculture can be expected to be effected.

Government must divest itself of the power of infringing, in its executive capacity, the rights and privileges which, as exercising the legislative authority, it has conferred on the landholders.

The revenue-officers must be deprived of their judicial powers.

All financial claims of the public, when disputed under the Regulations, must be subjected to the cognizance of Courts of Judicature, superintended by Judges who, from their official situations and the nature of their trusts, shall not only be wholly uninterested in the result of their decisions, but bound to

decide impartially between the public and the proprietors of land, and also between the latter and their tenants.

The Collectors of the revenue must not only be divested of the power of deciding upon their own acts, but rendered amenable for them to the Courts of Judicature, and collect the public dues subject to a personal prosecution for every exaction exceeding the amount which they are authorized to demand on behalf of the public, and for every deviation from the Regulations prescribed for the collection of it.

No power will then exist in the country by which the rights vested in the landholders by the Regulations can be infringed or the value of landed property affected.

Land must, in consequence, become the most desirable of all property, and the industry of the people will be directed to those improvements in agriculture which are as essential to their own welfare as to the prosperity of the State.

The following rules, being the rules passed for the guidance of the Collectors and the Board of Revenue, on the 8th June, 1787, and the 25th April, 1788, with alterations adapted to the principles above stated, have been accordingly enacted.

2. [*Abolition of Courts of Mál Addlat.*] *Rep. by Act XII of 1873, s. 1.*

Collectors of revenue.

3. The collection of the revenue payable to Government from the estates in each zila is to be committed, as heretofore, to a civil covenanted servant of the Company, who is to be styled Collector of the revenue of the zila to which he may be appointed.[a]

Collectors subject to Board of Revenue.

4. The Collectors are to correspond with the Board of Revenue, and to conform to all instructions with which they have been furnished by that Board, and that are or may not be altered or revoked by this or any other Regulation,[b] and also to all instructions which the Board of Revenue may hereafter transmit to them.

Seals of Collectors.

5. The Collectors of the several zilas are to use a circular seal one inch and a half in diameter.

The seals of the Collectors in Bengal and Orissa are to bear an inscription to the following effect, in the Bengal and Persian characters and languages, and the seals of the Collectors in Behar a similar inscription, in the Persian character and language, and the Hindustáni language and Nágri character: "The seal of the Collector of the zila of ....."

Collectors to keep diary.

6. The Collectors are to keep a regular diary of their official transactions,

[a] The second sentence of s. 3, repealed by Act XII of 1873, s. 1, has been omitted.
[b] Certain words in s. 4, repealed by Act XVI of 1874, s. 1, have here been omitted.

either in the English, Persian or Bengal language, recording and attesting them with their official signature at the time they may take place.

7. The duties prescribed in the following section are to be performed by the Collectors under the superintendence of the Board of Revenue. Duties of Collectors.

8. *First.*—To collect the amount of the fixed revenue assessed upon the lands of the zamindárs, independent taluqdárs or other actual proprietors of land, with or on behalf of whom a settlement has been or may be concluded. Nature of duties.

Second.—To collect the stipulated annual revenue from the farmers of estates let in farm.

Third.—To levy the rents and revenue from estates held khás.

Fourth.—To make the future settlement of khás, or farmed estates, agreeably to the regulations and instructions which they may receive for that purpose.

Fifth.—To prosecute for the recovery of the dues of Government from lands, of whatever description, held exempt from the payment of revenue under illegal or invalid tenures.

Sixth.—To pay the pensions and allowances included in the public revenue, and the pensions and compensations granted in consequence of the abolition of the sáir.

Seventh.—To execute the instructions which may be issued to them by the Court of Wards regarding disqualified landholders and their estates.

Eighth.—To superintend the division of landed property paying revenue to Government which may be ordered to be divided into two or more distinct estates.

Ninth.—To apportion the public revenue on lands ordered to be disposed of at public sale for the discharge of arrears of revenue.

Tenth.—To collect the tax on spirituous liquors and intoxicating drugs or articles.

Eleventh and Twelfth. [*To procure lands for native invalid soldiers; to collect the police tax.*] *Rep. by Act XVI of 1874, s. 1.*

Thirteenth.—To perform the above, and all other duties, according to the rules that have been or may be prescribed to them.[a]

Fourteenth.—To transmit such annual, monthly or other accounts as they now furnish, or may be hereafter required to send by the Board of Revenue, or any officer under that Board empowered to require such accounts.

Fifteenth.—To conform to all special orders that have been or may be issued to them by the Board of Revenue, or by public officers empowered to issue such orders.

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[a] The rest of the thirteenth clause of s. 8, repealed by Act XII of 1876, s. 1, has been omitted.

Native officers to obey orders of Collector.

9.[a] All Native officers under the Collector are to act agreeably to his orders and such rules as he may prescribe.

They are not to perform any act of authority without his sanction or authority, under pain of being fined in a sum not exceeding six months' salary, or of being dismissed from their offices by the Collector, the Board of Revenue or the Governor General in Council, and also of being sued in the Court of Judicature for damages by any person who may consider himself aggrieved by such unauthorised act.

Collectors not to employ private servants in public matters.

10. The Collectors are prohibited from employing, directly or indirectly, their private servants, whether baniyás or others, in the discharge of any part of their public duties, it being required that, in all matters relating to the trust committed to them, they act as the only empowered agents of Government.

This prohibition, however, is not meant to restrict them from occasionally employing their assistants [b] or their inferior public servants in the cases and in the manner in which they are authorised to make use of their agency.

Appointment and removal of Native cash-keepers.

11. The khazánchi or Native cash-keeper in each zila is to be nominated by the Collector, who is to take good and sufficient security from him for the faithful discharge of his trust, and for making good all deficiencies in the public money that may be committed to his charge.

The Collector is to transmit the names of the person whom he may nominate to the office of khazánchi, and of his surety, with a copy of the engagement executed by the latter, to the Board of Revenue; but the person so nominated shall not be considered as appointed until the Board of Revenue shall have signified their approbation both of him and his surety.

The Native cash-keeper so appointed shall not be removed but for misconduct, or other sufficient cause, proved to the satisfaction of the Board of Revenue; and he and the Collector shall be held jointly and severally responsible to Government for the public money committed to their charge.

12. [*Form to be observed in issuing public money.*] *Rep. by Act XXV of 1851.*

Appointment and removal of Native servants.

13. [c]*The appointment and dismission of all Native public servants on the establishments of the collectorships (the keepers of the Native records and the khazánchi excepted) are vested in the Collectors.*[c]

But they are to transmit to the Board of Revenue regular notice of all appointments and removals, and are to employ none but such public and registered officers in matters in any respect relating to their official duty, and are

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[a] The first three words of s. 9, repealed by Act XVI of 1874, s. 1, have here been omitted.
[b] The words "or diwáns" in s. 10, repealed by Act XVI of 1874, s. 1, have here been omitted.
[c-c] This part of s. 13 has been repealed by Ben. Reg. V of 1804, s. 3.

not, under any plea or pretext to confer on their public officers any private trust relating to their personal concerns.

In absence of Collector, senior Assistant to officiate.

14. In the event of the death or removal of a Collector, or of his absence from his station, the senior Assistant on the spot is to perform the duties of Collector;[a] and the public officers of the collectorship are accordingly to obey his orders.

Collectors and their officers prohibited being concerned extra officially in revenues.

15. No Collector, Assistant[a] to a Collector, or any Native in the employ of a Collector or of an Assistant, shall hold, directly or indirectly, any farm, or be concerned on their private account in the collection or payment of the revenue of any lands in the zila, either as farmer, surety or otherwise; and Native officers and private servants and dependants of Collectors and Assistants are prohibited from purchasing, directly or indirectly, any land that the Collector may dispose of at public sale, under the penalty of forfeiting the property to Government, upon proof being made, to the satisfaction of the Governor General in Council, of the property having been so purchased.

Bonâ fide purchases of land at private sale by Collector's officers, &c.

16. The rules in the preceding section, however, are not to be considered to prohibit[a] a Native officer of a Collector, or any private servant of a Collector or of an Assistant, from purchasing *bonâ fide* the proprietary right in lands situated in the zila, by private sale.

17. [*Prohibition against giving land to Europeans.*] *Rep. by Act VIII of 1868, s. 1.*

Collectors and their Assistants prohibited from trading.

18. No Collector, Assistant[b] shall, directly or indirectly, carry on any trade, or be concerned in any commercial transaction whatever.

This prohibition, with regard to Collectors and their Assistants, is declared to extend to the purchase, directly or indirectly, of any goods or commodities in the British dominions in Bengal, for the purpose of remitting money to Europe.

19. [*Diwáns prohibited from lending money to proprietors of land.*] *Rep. by Act XII of 1873, s. 1.*

Collectors to keep records.

20. The Collectors are to be careful that the accounts and records of their respective zilas are kept complete and duly preserved.

21, 22. [*Rules for rendering zilas compact and prohibition against employing sepoys in collection of revenue.*] *Rep. by Act XVI of 1874, s. 1.*

23. [*Restriction on advances of takkávi.*] *Rep. by Act XXVI of 1871, s. 2.*

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[a] Certain words, in ss. 14, 15, 16 and 18, repealed by Act XVI of 1874, s. 1, have here been omitted.

[b] Sic; read "or Assistant."

Collectors not to exercise authority beyond limits of their zilas without orders

24. The Collectors are prohibited deputing any person into the zila of any other Collector, or exercising any authority beyond the limits of their respective zilas, excepting in cases in which they may be authorized so to do[a] by special orders from a competent authority.

Rule with regard to receipts.

25. The Collectors are to give monthly receipts for all payments of revenue into their treasuries, specifying the date or dates on which the money may be received.[a]

The keepers of the Native records are to keep a register of these receipts regularly numbered.

After having registered the receipts they are to attest on the face of them the date on which they may be registered.

A copy of this register is to be transmitted monthly to the Board of Revenue, or as often as that Board may require.

A similar register of receipts is to be kept by all tahsildárs, sazáwals or other Native officers entrusted with the immediate collection of the public revenue, and a copy of it is to be transmitted to the Collector monthly, or as often as he may require.

Register of receipts for salaries, &c.

26. The monthly or other receipts, for salaries, pensions or allowances, of whatever kind, which may be paid by the Collectors are to be deposited amongst the public records of their respective zilas, and a register of them is to be kept by the keepers of the Native records.[a]

27. [*Collectors resigning or removed not to quit station without sanction.*] *Rep. by Act XVI of 1874, s. 1.*

28, 29. [*Collectors to be subordinate to a Board of Revenue; its constitution.*] *Rep. by Ben. Reg. III of 1822, s. 2.*

30, 31, 32. [*Power of Board over officers under them and rules regarding deputations.*] *Rep. by Act XVI of 1874, s. 1.*

In what cases Board may require personal attendance of Natives.

33. The Board of Revenue are empowered to require the personal attendance of any proprietor or farmer of land, or any dependent taluqdár, underfarmer or raiyat, or any Native officer employed under a Collector, for the purpose of adjusting any settlement, or examining any accounts, or inquiring into any matter coming within their cognizance, provided the personal attendance of the party shall appear to them indispensably necessary.

In such cases the Board are to direct the Collector to serve such person with a written notice under his official seal and signature, specifying the business on account of which his attendance is judged necessary, and requiring him to attend the Board by such period as they may limit, under pain of being sub-

[a] Certain words in ss. 24, 25 and 26, repealed by Act XVI of 1874, s. 1, have here been omitted.

ject to such daily fine until he attends, or shows satisfactory cause for his non-attendance, as the Board may think proper to impose.

The Board are empowered to fine such persons neglecting to appear by the time required, in such amount as may appear to them proper upon a consideration of the case and the situation and circumstances in life of the party, and the amount of the fine shall be levied by the Collector, by the process prescribed for the recovery of arrears of revenue.

But the Board of Revenue are prohibited requiring the personal attendance of any person in cases in which the business can be transacted by a vakil.

34, 35. [*Execution of Board's orders and powers of Members.*] *Rep. by Ben. Reg. III of 1822, s. 2.*

Powers of Board as to settlement of lands held khás.

36. The Board of Revenue are empowered to issue orders to their subordinate officers for making the settlement of lands that are or may be khás, in conformity to the Regulations, and any special instructions which may be prescribed to them by the Governor General in Council.

Security for payment of revenue.

37. In all cases of a settlement being made with or on behalf of zamindárs, independent taluqdárs or other actual proprietors of land, their lands are to be deemed sufficient security for the payment of the revenue.

But, where lands are let in farm, a málzámin, or surety for the punctual discharge of the revenue, is to be invariably required.

Remissions.

38. No remissions upon the settlement of a preceding year, nor any remissions whatsoever, are to be granted by the Board without the sanction of the Governor General in Council.

Settlements to be made by Collectors.

39. It is to be observed as a general principle that the settlement of lands that are or may be khás is to be made by the Collectors under the regulations and the instructions of the Board of Revenue.

But if the Board should deem a special deputation of one of their members, or of any other person, necessary to form the settlement of any such lands, they are to propose the measure to the Governor General in Council, with their reasons for recommending it.

Procedure on settlement being concluded.

40. Upon a settlement being concluded with any proprietor or farmer, conformably to the Regulations, the Board of Revenue are to issue the usual bandobasti parwána to the proprietor or farmer, without applying to the Governor General in Council for his sanction for that purpose.

Collection of revenue.

41. The collection of the revenue is committed to the Collectors; but the Board of Revenue are to see that the revenues are realized by the stipulated periods, or that solid and satisfactory reasons are assigned by the Collectors for any delay or deficiency.

The power of coercion over the proprietors and farmers of land is also vested in the Collectors, as prescribed in Regulation XIV, 1793.[a]

Temporary suspensions.

42. The Board are authorized to grant temporary suspensions of the demands of revenue whenever it may appear to them indispensably necessary, reporting the sum suspended, without delay, to the Governor General in Council, with their reasons for the measure. But they are not to grant any suspensions beyond the current year.

Remissions of balances.

43. No remissions of balances are to be granted without the special authority of the Governor General in Council.

44. [*Accounts to be furnished to Governor General.*] *Rep. by Act XXVI of 1871, s. 2.*

Duty of Board to furnish accounts, &c.

45. The Board of Revenue are to furnish the Governor General in Council with such annual, monthly or other accounts as they now are or may be required to submit to him.

They are likewise to observe all special orders which they have received or may receive from the Governor General in Council.

46, 47. [*Prohibitions to be observed by Board and acknowledgment for places restored to foreign powers.*] *Rep. by Act XVI of 1874, s. 1.*

48. [*Separate account of expenses for reducing rebellious zamindárs and others.*] *Rep. by Act XII of 1873, s. 1.*

49—70. [*Rules for conducting the business of Board and powers of President*] *Rep. by Ben. Reg. III of 1822, s. 2.*

REGULATION VIII OF 1793.[b]

Passed on the 1st May, 1793.

A Regulation for re-enacting, with modifications and amendments, the rules for the Decennial Settlement of the public revenue payable from the lands of the zamindárs, independent taluqdárs and other actual proprietors of land, in Bengal, Behar and Orissa, passed for those Provinces respectively on the 18th September, 1789; the 25th November, 1789; and the 10th February, 1790, and subsequent dates.

1-3. [*Re-enactment of code of rules passed on 23rd November, 1791; term*

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[a] Ben. Reg. XIV of 1793 has been repealed by Act XVI of 1874, ~~and~~ but this reference is saved by the provisions of this act.

[b] This Regulation has been declared to apply to the whole of Bengal, except the Scheduled Districts, by Act XV of 1874, s. 6. It has also been declared in force by Reg III of 1872, s. 3, as amended by Reg. III of 1886, s. 2, in the Sonthal Pergunnahs, and under s. 3 of the Scheduled Districts Act, 1874, in West Jalpáiguri, the districts of Hazáribágh and Manbhoom and Pergunnah Dhalbhoom—see *infra*, pp. 625 and 648, ~~also in the district of Sylhet—see Appendix to Assam Supplement.~~

of settlement; to be perpetual with approbation of Court of Directors.] *Rep. by Act XVI of 1874, s. 1.*

Settlement with whom to be concluded.

4. The settlement, under certain restrictions and exceptions hereafter specified, shall be concluded with the actual proprietors of the soil, of whatever denomination, whether zamindárs, taluqdárs or chaudhris.

5-12. [*What taluqdárs to be actual proprietors; payment of rent through actual proprietors; what taluqdárs to be leaseholders; jangalburi taluqdárs; proprietors of málguzári aima lands; rules for guidance of Collectors; rights of dissatisfied parties to sue in Court of Diwáni Adálat.*] *Rep. by Act XVI of 1874, s. 1.*

Payment of revenue by taluqdárs ordered to be separated.

13. Taluqdárs ordered to be separated are not to be permitted to pay the revenue assessed upon their lands through the zamindárs or other actual proprietors of estates, as heretofore.

Separated taluqdárs where to pay revenue.

14. Taluqdárs who, in consequence of the rules in sections 5 and 9,[a] may be separated from the zamindárs or other actual proprietors of estates, through whom they heretofore paid their revenues, are to pay their revenue in future immediately into the Collector's treasury; except in districts where, from the number of taluqs, or other cause, this mode would be attended with considerable inconvenience, in which case tahsildárs, or Native Collectors, are to be appointed to receive the revenue of the taluqs in such districts.

Tahsildárs.

15. Zamindárs or other actual proprietors of land, from whose zamindáris or estates taluqs may be separated, shall not be appointed tahsildárs to receive

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[a] Ss. 5 and 9, referred to in s. 14, are as follows:— (The reference is saved by the proviso to Act XVI of 1874)

"5. *First.*—The taluqdárs to be considered the actual proprietors of the lands composing the taluqs are the following:—

Second.—Taluqdárs who purchased their lands by private or at public sale, or obtained them by gift from the zamindár or other actual proprietor of land to whom they now pay the revenue assessed upon their taluqs, or from his ancestors, subject to the payment of the established dues of Government, and who received deeds of sale, or gift of such land, from the zamindár, or sanads from the khálsá, making over to them his proprietary rights therein.

Third.—Taluqdárs, whose taluqs were formed before the zamindár or other actual proprietor of land to whom they now pay their revenue, or his ancestors, succeeded to the zamindári.

Fourth.—Taluqdárs, the lands comprised in whose taluqs were never the property of the zamindár or other actual proprietor of the soil to whom they now pay their revenue, or his ancestors.

Fifth.—Taluqdárs who have succeeded to taluqs of the nature of those described in the preceding clauses, by right of purchase, gift or inheritance, from the former proprietor of such taluqs."

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"9. The rules in section 5, respecting taluqs, have also been extended to aima lands liable to the payment of a fixed quit revenue, denominated málguzári aimas; and, agreeably to the distinctions laid down in that section, it has been ordered, that such málguzári aima tenures as are held under grants of the Muhammadan Government previous to the Company's accession to the Diwáni, or which have been since granted by proprietors of estates for a consideration received by them, are to be separated from the proprietors to whom their revenue is now paid, as coming within the spirit of the rules for the separation of taluqdárs who are proprietors of the lands composing their taluqs. But málguzári aima tenures which may appear to have been *bonâ fide* granted for the purpose of bringing waste-lands into cultivation shall continue included in the estates to which they are now annexed, as coming within the rules in section 8, respecting jangalburi taluqs."

the revenue of the taluqs so separated, but the office of tahsildár shall, in every instance, be given to some other person of character and responsibility, and the whole expense of it is to be defrayed by Government.

16-18. [*Rules respecting mukarrari leases and mukarraridárs.*] *Rep. by Act XII of 1876, s. 1.*

Istimrárdárs to be considered as pattá taluqdárs.

19. Istimrardárs, however, who have not got possession of their lands to the exclusion, or without the consent, of the actual proprietors, as the mukarraridárs mentioned in section 18 are supposed to have done, but hold them of the proprietors on pattá or lease, are to be considered as a species of pattá taluqdárs, and the settlement is to be made with them as hereafter specified.

Exceptions to general order for conclusion of decennial settlement with actual proprietors of soil

20. The exceptions to the general order for the conclusion of the decennial settlement with the actual proprietors of the soil, contained in section 4, include the following descriptions of persons; females (excepting those whom the Governor General in Council may judge competent to the management of their own estates), minors, idiots, lunatics or others rendered incapable of managing their lands by natural defects or infirmities of whatever nature:[a] provided, however, with regard to the whole of these descriptions, that they are not partners in the zamindáris, independent taluqs or other estates held by them, with others of a different description, in which case themselves or guardians are allowed, with their partners, to engage for the settlement of their lands, and elect a joint manager, under the restrictions hereafter mentioned.

Management of lands of disqualified proprietors

21. The lands of disqualified proprietors, coming within the above descriptions, are to be managed for the benefit of the proprietors by persons appointed to the trust by Government.[b]

Exception as to proprietors of land in balance to Government and unable to pay arrears.

22. A further exception has been made to proprietors in balance to Government, and unable to pay the arrears due from them; in which instances no settlement is to be concluded with the defaulting proprietors, but their lands are to be let in farm, or held khás, for a period of three years, at the discretion of the Collector.

23—25. [*Settlement of undivided estates possessed by several proprietors; appointment of manager; when guardians of proprietors may vote in choice of manager; nomination of manager by Collector.*] *Rep. by Ben. Reg. XVII of 1805, s. 2.*

Determination

26. The determination of the majority of the proprietors present, under

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a Part of s. 20 relating to disqualification on the ground of contumacy or notorious profligacy of character, repealed by Ben Reg. VII of 1796, s. 2, has been omitted.

b The rest of s. 21, repealed by Act XVI of 1874, s. 1, has been omitted.

the restrictions specified in section 23,[a] is also to be binding on the remainder, in agreeing or disagreeing to the jama proposed for undivided estates. The sharers, however, if dissatisfied, may obtain a division of their lands and a proportionate allotment of the revenue assessed thereon, but at their own expense. of agreement to jama of undivided estates.

27. When a portion of land stands in the joint names of several proprietors, or of one for many, but each proprietor has his separate share in his own possession and management, or in that of an agent for him, the settlement is to be made for each share with the person in possession, and his land is to be held exclusively responsible for the revenue assessed upon it. Settlement of land standing in joint names of several proprietors, or of one for many.

28, 29. [*Settlement of mortgaged lands; settlement when proprietors are not forthcoming.*] *Rep. by Act XII of 1876, s. 1.*

30. Where the property in lands is disputed, the settlement is to be made with the proprietor in possession, under an express declaration that he is nevertheless liable to the claims upon the estate, which is to be transferable to any other person to whom the property may be subsequently adjudged. Settlement of disputed estates.

31. If a case should occur in which none of the claimants shall have been previously in possession, they are to be allowed to appoint a manager until their claims shall have been determined in the Diwáni Adálat of the zila: but, if they should not agree to a manager, the lands are to be held khás, and the surplus produce, after discharging the revenue, is to be kept in deposit, until the right of property shall be adjudged. If no claimant has been previously in possession.

32. Where disputes exist concerning the boundaries of land, they are to be left to be adjusted in the Diwáni Adálat, and the settlement is to be made in the meantime for the lands in possession of the disputing parties respectively. Settlement in cases of disputes as to boundaries.

33. The special rules for fixing the assessment of the three Provinces respectively, adapted to the local circumstances of each, commence with section 68, and the following general rules have been prescribed in addition thereto. Rules for fixing assessment.

34. The allowances of the kázis and kánúngos heretofore paid by the landholders, as well as any public pensions hitherto paid through the landholders, are to be added to the amount of the jama, and in future paid by the Collectors of the revenue of the several zilas, on the part of Government, Allowances of kázis and kánúngos, and public pensions, to be added to the jama.

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[a] S. 23, referred to in s. 26, is as follows:—"23. Where more proprietors than one possess an undivided estate, and the whole of them be not within the description of disqualified landholders specified in section 20, the settlement is to be made with them jointly, and they are to be required to elect a sarbaráhkár or manager, who shall have the exclusive management of their lands during the continuance of his appointment. The determination of the majority of the proprietors, or of the majority of those present in the event of the absence of any, is to be binding on the remainder in the choice of a manager; and, when the votes of the proprietors are equal, the election of the manager is to be determined by the greater interest of the proprietors in the property. If in any case the interest also be equal, the manager is to be appointed by the Board of Revenue."

under the rules and restrictions laid down for their guidance, with regard to such payments, in the resolutions passed by the Governor General in Council on the 10th June, 1791, and re-enacted with modifications by Regulation XXIV, 1793.[a]

Assessment to be fixed exclusive of sáir with exceptions.

35. The assessment is to be fixed exclusive and independent of all duties, taxes and other collections, known under the general denomination of sáir; the collections made in the ganjes, háts and bázárs, situated within the limits of the town of Calcutta excepted, and excepting also the collections confirmed to the proprietors and holders of ganjes, bázárs and háts, by the resolutions passed by the Governor General in Council on the 11th of June, 1790.[b]

Also exclusive of lákhiráj lands.

36. The assessment is also to be fixed exclusive and independent of all existing lákhiráj lands, whether exempted from the khiráj (or public revenue) with or without due authority.

But not of málikána lands in Behar, or other lands in Bengal and Midnapore.

37. The above exemption, however, is not meant to include the málikána lands in Behar, or the nánkár, khámár, nij-jot and other private lands of the zamindárs and independent taluqdárs or other actual proprietors of land in Bengal and Midnapore, regarding which the following rules have been prescribed.

Málikána lands in Behar to be re-annexed.

38. Where the zamindárs or other actual proprietors of land in Behar have resigned, or have been deprived of the management of their lands, retaining possession of a tithe as málikána, the latter is to be re-annexed, and the zamindárs or other actual proprietors are to be required to engage for the whole of their estates including the málikána lands; unless such lands be held as málikána under grants made or confirmed by the Governor General in Council, or the supreme authority of the country for the time being, and have been sold or mortgaged, and given in possession to the mortgagee, in which case they are to be exempted from this rule.

Grants for málikána lands not made or confirmed by the supreme authority of the country are declared invalid by the Regulations passed on the 8th August, 1788.

If the Collectors, however, should be of opinion that any material injury will be done to any individual by the execution of these orders, they are to report the circumstances to the Board of Revenue.

Nánkár, khámár, nij-jot and other pri-

39. The nánkár, khámár, nij-jot and other private lands appropriated by the zamindárs, independent taluqdárs and other actual proprietors of land in

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[a] Ben. Reg. XXIV of 1793 has been repealed by Act XXIII of 1871.
[b] The rest of s. 35, repealed by Act XVI of 1874, s. 1, has been omitted.

Bengal and Orissa to the subsistence of themselves and families shall be also annexed to the málguzári lands, and the ten years' jama fixed upon the whole under the following modification; that such proprietors as may decline to engage for their lands be allowed the option of retaining possession of their private lands above specified, upon the terms on which they have hitherto possessed them, provided they shall prove, to the satisfaction of the Board of Revenue, that they held them under a similar tenure previous to the 12th August, 1765, the date of the grant of the Diwáni to the Company, and have hitherto been permitted to keep possession of them, whenever their zamindáris or estates have been held khás or let in farm, but not otherwise.

Private lands of proprietors in Bengal and Orissa to be annexed to be málguzári lands.

In the event of such proof, and of their availing themselves of the option above given to retain possession of their private lands, a deduction, adequate to the neat produce of such lands, is to be made from the amount of the allowance fixed for excluded proprietors by section 44.

40. The above consolidation of the málguzári and private lands is also to be made in the taluqs continued under the proprietors on whom they have hitherto been dependent; not, however, with a view of increasing the rents of the taluqdárs, but in order to make the whole of the lands composing their taluqs answerable for their proportion of the public assessment allotted thereon.

Consolidation of málguzári and private lands also in certain taluqs.

41. The chákarán lands, or lands held by public officers and private servants in lieu of wages, are also not meant to be included in the exception contained in section 36. The whole of these lands in each Province are to be annexed to the málguzári lands and declared responsible for the public revenue assessed on the zamindáris, independent taluqs or other estates in which they are included, in common with all other málguzári lands therein.

Chákarán annexed to málguzári lands.

42. [*Engagements for the jama to be for Sicca rupees.*] *Rep. by Act XVI of 1874, s. 1.*

43. In the event of any proprietor declining to engage for the settlement of his lands at the jama proposed to him, the Collector is to communicate the objections offered, with his opinion respecting them, to the Board of Revenue.

That Board is to determine the proper assessment after making such further inquiries as they may think necessary, and the objecting proprietor is to be required to engage for such assessment without further delay; and in the event of his refusal, which is to be given in writing, his lands are to be let in farm or held khás, as the Board of Revenue may in each instance think most expedient.

Procedure in case of landholders declining to engage for jama proposed to them.

44-47. [*Proprietors refusing to engage for the jama to receive málikaná.*

rules respecting payment of málikaná and enforcement of payment from farmers.] *Rep. by Act XVI of 1874, s. 1.*

48. [*Settlement by proprietors with talúqdárs under them.*] *Rep. by Act XII of 1876, s. 1.*

Certain istimrárdárs not liable to increase of rent.

49. It is to be understood, however, that istimrárdárs (mukarraridárs) of the nature of those described in section 18,[a] who have held their land at a fixed rent for more than twelve years, are not liable to be assessed with any increase, either by the officers of Government or by the zamíndár or other actual proprietor of land, should he engage for his own lands.

With regard to such istimrárdárs also as have not held their lands at a fixed rent for so long a period, if the zamíndár or other actual proprietor of land has bound himself by the deed which he may have executed not to lay any increase upon them, he shall not be allowed to infringe the conditions of the deed for his own benefit, but must confine his demands to the rent he may have voluntarily agreed to receive.

Exception to above.

50. This last restriction imposed on the zamíndár or other actual proprietor of land, in section 49, is not to be considered to preclude the officer of Government or farmer, in the event of the zamíndári being held khás or let in farm, from assessing such istimrárdárs according to the general rate of the district.

Rules to prevent undue exactions from talúqdárs.

51. The following rules are prescribed to prevent undue exaction from the dependent talúqdárs:—

First.—No zamíndár or other actual proprietor of land shall demand an increase from the talúqdárs dependent on him, although he should himself be subject to the payment of an increase of jama to Government; except upon proof that he is entitled so to do, either by the special custom of the district, or by the conditions under which the talúqdár holds his tenure; or that the talúqdár, by receiving abatements from his jama, has subjected himself to the payment of the increase demanded, and that the lands are capable of affording it.

Second.—If, in any instance, it be proved that a zamíndár or other actual

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[a] S. 18, referred to in s. 49, is as follows:— (the reference is cancelled by Act XII of 1876)

18. Mukarraridárs holding lands of which they are not the actual proprietors and whose mukarrari grants have been obtained since the Company's accession to the Diwáni, and never received the sanction of the Supreme Government, are to be dispossessed, and the settlement is to be made with the actual proprietors of the soil under this Regulation.

In cases, however, where such mukarraridárs have been in possession of their mukarraris for a term exceeding twelve years, they are to receive during their lives (subject to the pleasure of the Honourable Court of Directors) the difference between the jama at which they hold the lands and that which may be now agreed to by the actual proprietors, added to the neat produce of the authorized sáir, resumed or abolished.

[b] S. 51 has been repealed in Bengal (except Calcutta, Orissa and the Scheduled Districts) by Act VIII of 1885, s. 2.

Nothing in S. 57 is to affect any Settlement proceedings under Reg. VII of 1822 or under any other laws for the time being in force for the regulation of settlements of land-revenue See Bom. Act VII of 1879, S. 4

proprietor of land exacts more from a taluqdár than he has a right to, the Court shall adjudge him to pay a penalty of double the amount of such exaction, with all costs of suit, to the party injured.[a]

Power of actual proprietors to let remaining lands as they think proper.

52.[b] The zamindár or other actual proprietor of land is to let the remaining lands of his zamindári or estate, under the prescribed restrictions, in whatever manner he may think proper; but every engagement contracted with under-farmers shall be specific as to the amount and conditions of it; and all sums received by any actual proprietor of land or any farmer of land, of whatever description, over and above what is specified in the engagements of the persons paying the same, shall be considered as extorted, and be repaid with a penalty of double the amount. The restrictions prescribed and referred to in this section are the following:

Lands so let not to be taken charge of without ámilnáma.

53.[b] No person contracting with a zamindár, independent taluqdár or other actual proprietor or employed by him in the management of the collections shall be authorized to take charge of the lands or collections without an ámilnáma, or written commission, signed by such zamindár, independent taluqdár or other actual proprietor.

Process to prevent imposition on raiyats under denomination of abwáb, muthaut, &c.

54.[b, †] The impositions upon the raiyats, under the denomination of abwáb, muṭhaut and other appellations, from their number and uncertainty having become intricate to adjust, and a source of oppression to the raiyats, all proprietors of land and dependent taluqdárs shall revise the same, in concert with the raiyats, and consolidate the whole with the assal into one specific sum.

In large zamindáris or estates the proprietors are to commence this simplification of the rents of their raiyats in the parganas where the impositions are most numerous, and to proceed in it gradually till completed; but so that it be effected for the whole of their lands by the end of the Bengal year 1198 in the Bengal districts, and of the Fasli and Wiláyati year 1198 in the Behar and Orissa districts, these being the periods fixed for the delivery of pattás, as hereafter specified.

Proprietors and farmers of land prohibited imposing new abwáb or muṭhaut on raiyats.

55.[b] No actual proprietor of land or dependent taluqdár or farmer of land, of whatever description, shall impose any new abwáb or muṭhaut upon the raiyats under any pretence whatever.

Every exaction of this nature shall be punished by a penalty equal to three times the amount imposed; and if, at any future period, it be discovered that

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[a] See Act X of 1859, s. 15, *infra*, p. 346, and Ben. Act VIII of 1879, s. 4.

[b] Ss. 52—55 have been repealed ~~in Bengal~~ (except Calcutta, Orissa and the Scheduled Districts) by Act VIII of 1885, s. 2.

† S. 54 is not applicable to that part of the zila of Rámgarh which is included in the Súbah of Behar—see Ben. Reg. IV of 1794, s. 2.

new abwáb or mathaut have been imposed, the person imposing the same shall be liable to this penalty for the entire period of such impositions.

56, 57.* [*Variations of pattás according to articles of produce; what pattás delivered to raiyats shall contain.*] *Rep. by Act XII of 1876, s. 1.*

58. [*Forms of pattás of proprietors.*] *Rep. by Ben. Reg. V of 1812, s. 3.*

59, 60. [*Right of raiyats to demand pattás; existing leases to remain in force until period of expiration; restriction on cancelling pattás of khudkásht raiyats.*] *Rep. by Act XII of 1876, s. 1.*

61. [*Time allowed for delivery of pattás to raiyats.*] *Rep. by Act XVI of 1874, s. 1.*

Rules regarding patwáris.

62.* ~~*First.* The annual revenue to be paid to Government from the~~ estates of the proprietors of land with whom a settlement has been or may be concluded having been declared fixed for ever, and Courts of Justice having been established, with powers to protect them against all demands exceeding that fixed revenue, whether made by the officers of Government or other persons, or by the authority of Government itself, and on the other hand the grounds on which deductions and abatements were heretofore occasionally obtained by proprietors of estates when their jama was liable to frequent variation no longer existing, neither their rights nor the value of their property can be affected in future by the real produce of their estates being known.

Rep. by Ben. Reg. XII of 1817, as extended by Ben. Reg. I of 1819, s. 4, to Cuttack.

The rules, therefore, hereafter prescribed regarding patwáris, which are framed solely to facilitate the decision of suits in the Courts of Judicature between proprietors and farmers of lands and persons paying rent or revenue to them, and to guard against any diminution of the fixed revenue of Government or injustice to individuals, by enabling the Collectors to procure the necessary information and accounts for allotting the public jama upon estates that may be divided, agreeably to the principles prescribed in Regulation I, 1793, can be objected to by those proprietors only who may have it in contemplation, in the event of the division or transfer of a portion of their estates, to deprive Government of a part of the fixed revenue, or defraud some of the partners in their estates by obtaining a disproportionate allotment of the public assessment on the several shares, or to oppress the persons paying rent or revenue to them with impunity, by withholding from the Courts of Justice the documents necessary to enable them to afford redress to the complainants.

* S. 62 has been rescinded in the ceded and conquered provinces, the provinces of Behar and Benares, the district of Cuttack, the pergunnah of Patáspur and the several pergunnahs dependent on it, by Ben. Reg. XII of 1817, s. 2.

It being essential to the security of the public revenue, as well as of private rights and property, and at the same time consistent with the ancient usages of the country and the declarations in the proclamation announcing the public assessment on the lands fixed for ever, that Government should have the means of counteracting such unjustifiable views, the following rules have been adopted:

Second.—Every proprietor of land who may not have established a patwári in each village in his or her estate, to keep the accounts of the raiyats, as required by the original rules for the decennial settlement of the three Provinces, shall immediately appoint a patwári in each village for that purpose. Proprietors to appoint patwári to keep accounts of each village.

All proprietors of estates are to deposit in the Diwani Adálat of the zila, the Collector's kachahri and the principal kachahrí in each mahál or pargana a list of the patwáris in their respective estates, and the names of the villages the accounts of which they may be severally appointed to keep. The proprietors are to notify every three months to the Court and the Collector all vacancies that may occur, and the names of the persons whom they may appoint to fill them.

The Board of Revenue are empowered to authorize any proprietor to reduce the number of patwáris in such proportion as they may think proper, in cases in which it may appear to them unnecessary to entertain a separate patwári for each village. Board of Revenue may authorize proprietors to reduce number of patwáris.

Third.—The patwáris in every estate are to produce all accounts relating to the lands, produce, collections and charges of the village or villages the accounts of which may be kept by them respectively, and to furnish every information and explanation that may be required regarding them, whenever they may be required by any Court of Justice to adjust any suit that may be depending before the Court between the proprietor or farmer of the estate and the raiyats, or any persons paying rent or revenue to them, or any other suit. Patwáris to produce accounts required by Courts,

Fourth.—The patwáris in each estate shall also produce the accounts specified in the preceding clause, and furnish every explanation and information that may be required respecting them, for the allotment of the public revenue agreeably to the principles laid down in Regulation I, 1793, in the event of the whole or any portion of the estates being directed to be disposed of at public sale, or being transferred by any private act of the proprietor or proprietors, or of the estate being ordered to be divided pursuant to a decree of a Court of Judicature, or, where it may be a joint estate, in consequence of the request of one or more of the proprietors. also for allotment of public revenue, in cases specified, when required by Collector.

But no Collector is to require a patwári to attend him and produce his accounts but for the purposes above-mentioned, or in any other cases in which Cases in which Collectors prohibited

requiring accounts from patwáris, and

they may be expressly empowered to require them by any Regulation printed and published in the manner directed in Regulation XLI, 1793.[a]

If any Collector shall require the patwári of any village or villages to attend him and produce the village-accounts for purposes or in cases in which he may not be authorized to inspect them, the Court of Diwáni Adálat, upon the circumstances being represented to it by the proprietor of the estate, is empowered to make an order to prohibit the Collector requiring the accounts, and, in the event of his repeating the requisition, to adjudge him to pay a fine to the proprietor of the estate, of such sum as to the Court may appear proper, and to levy the fine in the mode in which the Courts are empowered to levy fines from the Collectors in the suits described in section 33, Regulation XIV, 1793.[b]

penalty for breach of prohibition.

How Collectors and Courts are to compel attendance of patwáris.

Fifth.—When a Collector shall require the attendance of a patwári for the examination of his accounts, either before him or any officer whom he may depute for the purpose, he is to serve such patwári with a written notice, under his official signature and the seal of the zila, to attend with the accounts required, which are to be particularized in the notice.

If he shall omit to attend with the accounts by the limited time, and shall not show good cause to the Collector for the omission, the Collector is authorized to represent the circumstances through the vakil of Government to the Court of Diwáni Adálat of the zila, the Judge of which, provided there shall appear to him sufficient cause for so doing, may order such patwári to be committed to close custody until he produces the accounts.

The Courts are to observe the same process with patwáris who may omit to attend with their accounts when required for the adjustment of any matter or dispute depending before the Courts.

Patwáris may be required to swear to truth of accounts.

Sixth.—Patwáris shall be required to swear to the truth of the accounts they may produce when deemed necessary; and, in the event of the Collector having occasion to proceed in person, or to depute on officer to examine any village-accounts on the spot, the Judge, upon application being made to him for that purpose by the Collector through the vakil of Government, may grant to him, or to such officer, a commission to swear the several patwáris whose accounts are to be inspected, inserting in the commission the name of each patwári to be sworn.

If the Collector shall have occasion to examine the accounts of a patwári

[a] Bon. Reg. XLI of 1793 has been repealed by Act VIII of 1868.
[b] Bon. Reg. XIV of 1793 has been repealed by Act XVI of 1874.

at the station at which the Court may be established, he is to cause him to be sworn before the Court, if he shall judge it necessary to require him to make oath to the truth of his accounts.

Seventh.—If a patwári shall have sworn to the truth of any account that he may have been required to produce before a Court of Justice, for the purpose of deciding any matter before the Court, and the accounts shall afterwards be found to have been fabricated or altered, or not to be the true accounts, the Judge of the Court is empowered to commit him to be tried for perjury before the Court of Circuit. Patwáris liable to be prosecuted criminally for swearing to false accounts in Court of Judicature.

Eighth.—If a patwári shall have been sworn before a Judge, or before a Collector or the officer of a Collector, to any accounts that he may have been required to produce before the Collector or his officer, in a case in which the Collector may have been empowered to require him to produce such accounts, and the accounts shall afterwards appear to have been fabricated or altered, or not to be the true accounts, the Collector is empowered to employ the vakil of Government to prosecute such patwári for perjury. or before Collector.

In the cases specified in this and the preceding clause, if it shall be proved to the satisfaction of the Court that the accounts were fabricated, altered or changed by the orders, or with the knowledge or connivance, of the proprietor or farmer of the estate, the Court shall impose such fine upon the proprietor or farmer so offending, as may appear to it proper, upon a consideration of the case and the situation and circumstances of the offender. Punishment for proprietors or farmers concerned in falsifying accounts.

Ninth.—Upon the accounts of any village being ordered to be produced, if it shall be found that no patwári has been appointed to keep the accounts of the raiyats, in conformity to the rules prescribed in clause second, the Court, provided it be a case in which the requisition of the accounts may be authorized, shall fine the proprietor for the first offence in such sum as it may judge proper upon a consideration of his or her situation and circumstances and the nature of the case; and, for the second offence, twice the amount of the fine for the first; and, for the third and every subsequent offence, double the amount of the fine for the preceding one. How proprietors omitting to appoint patwáris are to be proceeded against.

If the accounts shall have been required by the Collector, he is to order the vakil of Government to sue the proprietor on the part of Government under this section for a breach of the rule in clause second.

Tenth.—The rules contained in this section are hereby declared equally applicable to dependent taluqs as to estates paying revenue immediately to Government. Rules applied to dependent taluqs.

63. [*Proprietors to give receipts for rent or revenue received, and not to*

demand rent of absconded raiyats from those who remain] *Rep. by Act XVI of 1874, s. 1.*

Adjustment of mufassal kistbandis

64.* The proprietors of land, dependent taluqdárs and farmers of land, of every description, are to adjust the instalments of the rents receivable by them from their under-renters and raiyats, according to the time of reaping and selling the produce, and they shall be liable to be sued for damages for not conforming to this rule

Bar to engagements contrary to Regulation

65.* No proprietor of land or dependent taluqdár shall contract any engagement with any under-farmer, or authorize any act, contrary to the letter and meaning of this Regulation.

Landholders, &c., not to interfere in matters coming within cognizance of Courts or Magistrates

66. Zamindárs, independent taluqdárs and other actual proprietors of land, dependent taluqdárs, farmers of land holding farms immediately of Government, and all persons farming lands of the above-mentioned descriptions of landholders and farmers of land, and their respective officers, agents, servants, dependents and raiyats, are prohibited from taking cognizance of, or interfering in, matters or causes coming within the jurisdiction of the Courts of Civil Judicature, or the Courts of Circuit, or the Magistrates, under pain of being liable to the payment of such fine to Government, and damages to the party injured, as the Court of Judicature in which they may be prosecuted for the act may deem it proper to impose and award.

67. ~~Clauses 1—4.~~ [*Restrictions in the kabuliyats to be in force, proprietors entitled to sell or mortgage their estates from date of settlement, rules regarding recovery of arrears from raiyats, withdrawal of police jurisdiction from proprietors*] *Rep. by Act XII of 1876, s 1.*

Collector to attend to spirit of Regulation, where not applicable to particular districts

Fifth.—In the original rules above-mentioned it was also directed that, if in any instance the Regulations should appear inapplicable to the circumstances of any particular district, the Collector should attend to the spirit of them, and carry them into execution in such mode as circumstances might allow, reporting any alterations or modifications which he might deem necessary.

This rule is to be considered still in force in forming any settlements which remain to be concluded, but it is not to be construed to empower the Collector to exercise any judicial authority.

68—101. [*Special orders for Bengal, Behar, Midnapore and Salt Districts*] *Rep by Act XVI of 1874, s 1.*

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* Ss 64 and 65 have been repealed ~~as Bengal~~ (except Calcutta Orissa and the Scheduled Districts) by Act VIII of 1885, s. 2, ~~as to repeal of s. 66, see also Ben. Reg. 9 of 1812, s 3~~ *infra*, p. 111.

(b) Sec. 2 of s. 65 the portion of Beng Reg V of 1812 s 3, which was repealed by sect XVI of 1874 as included "such parts of Regulation VIII of 1793 as declare that any agreements to rent contracted in any other manner than that prescribed by the Regulations ..... shall be deemed to be invalid"

REGULATION XI OF 1793.[a]

Passed on the 1st May, 1793.

A Regulation for removing certain restrictions to the operation of the Hindu and Muhammadan laws with regard to the inheritance of landed property subject to the payment of revenue to Government.

Preamble.

1. A custom, originating in considerations of financial convenience, was established in these Provinces under the Native Administrations, according to which some of the most extensive zamindáris are not liable to division.

Upon the death of the proprietor of one of these estates it devolves entire to the eldest son, or next heir of the deceased, to the exclusion of all other sons or relations.

This custom is repugnant both to the Hindu and Muhammadan laws, which annexed to primogeniture no exclusive right of succession to landed property, and consequently subversive of the rights of those individuals who would be entitled to a share of the estates in question were the established laws of inheritance allowed to operate with regard to them as well as all other estates.

It likewise tends to prevent the general improvement of the country, from the proprietors of these large estates not having the means, or being unable to bestow the attention, requisite for bringing into cultivation the extensive tracts of waste-land comprised in them.

For the above reasons, and as the limitation of the public demand upon the estates of individuals as they now exist, and the rules prescribed for apportioning the amount of it on the several shares of any estates which may be divided, obviate the objections and inconveniences that might have arisen from such divisions when the public demand was liable to annual or frequent variation, the Governor General in Council has enacted the following rules:

Descent of landed property after 1st July, 1794.

2.[b] If any zamindár, independent taluqdár or other actual proprietor of land shall die without a will, or without having declared by a writing, or verbally, to whom and in what manner his or her landed property is to devolve

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[a] This Regulation has been declared to apply to the whole of Bengal (except the Scheduled Districts) by Act XV of 1874, s. 6, and under s. 3 of the Scheduled Districts Act, 1874, it has been declared in force in West Jalpáiguri, the districts of Hazáribágh, Lohardugga and Manbhoom, and Pergunnah Dhalbhoom—see *infra*, pp. 625 and 648; also in the district of Sylhet—see appendix to Assam Supplement.

The Regulation is not to operate in the Jungle Mahálsof Midnapore and certain other districts—see Ben. Reg. X of 1800, s. 2, *infra*, p. 69.

[b] Certain words in s. 2, repealed by Act XVI of 1874, s. 1, have been omitted.

after his or her demise, and shall leave two or more heirs, who by the Muhammadan or Hindu law (according as the parties may be of the former or latter persuasion) may be respectively entitled to succeed to a portion of the landed property of the deceased, such persons shall succeed to the shares to which they may be so entitled.

Estate how held on death of actual proprietor.

3. If any zamindár, independent taluqdár or other actual proprietor of land shall die[a] without a will, or without having declared by a writing, or verbally, to whom and in what manner his or her landed property is to devolve after his or her demise, and shall leave two or more heirs, who by the Muhammadan or Hindu law (according as the parties may be of the former or latter persuasion) shall be respectively entitled to succeed to a portion of the landed property of the deceased, under the rule contained in that section,[b] such persons shall be at liberty, if they shall prefer so doing, to hold the property as a joint undivided estate.

the Estates' Partition Act, 1876 b

If one or more, or all of the sharers, shall be desirous of having separate possession of their respective shares, a division of the estate shall be made in the manner directed in ~~Regulation XXV, 1793~~,[c] and such sharer or sharers shall have the separate possession of such share or shares accordingly.

If there shall be three or more sharers, and any two or more of them shall be desirous of holding their shares as a joint undivided estate, they shall be permitted to keep their shares united accordingly.

Shares held separate how assessed.

4.[a] If any one or more of such sharers shall apply to have the separate possession of his or their share or shares, the proportion of the public jama charged upon the whole estate which is to be assessed upon such share or shares is to be adjusted according to the rules prescribed in section 10, Regulation I, 1793.

If the estate is held khás or let in farm, the provisions contained in section 11, Regulation I, 1793, regarding estates so circumstanced which may be divided, will be applicable to it.

Saving of bequests and transfers.

5.[d] Nothing contained in this Regulation is to be construed to prohibit any actual proprietor of land bequeathing or transferring by will, or by a declaration in writing, or verbally, either prior or subsequent to the 1st July, 1794, his or her landed estate entire to his or her eldest son or next heir, or other son or heir, in exclusion of all other sons or heirs, or to any person or persons, or to two or more of his or her heirs, in exclusion of all other persons or heirs,

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[a] Certain words in ss. 3 and 4, repealed by Act XVI of 1874, s. 1, have here been omitted.

~~[b] [illegible]~~

~~[c] Ben. Reg. XXV of 1793 has been repealed by Ben. Reg. XIX of 1814.~~

[d] Certain portions of ss. 5 and 6 were repealed by Act XVI of 1874, s. 1, and the residue amalgamated into this one section.

b Substituted by XII of 1891

✓ Printed supra p. 7.

in the proportions, and to be held in the manner, which such proprietor may think proper:

Provided that the bequest or transfer be not repugnant to any Regulations that have been or may be passed by the Governor General in Council, nor contrary to the Hindu or Muhammadan law; and that the bequest or transfer, whether made by a will or other writing, or verbally, be authenticated by, or made before, such witnesses, and in such manner, as those laws and Regulations respectively do or may require.

REGULATION XIX OF 1793.*

Passed on the 1st May, 1793.

A Regulation for re-enacting, with modifications, the rules passed by the Governor General in Council on the 1st December, 1790, for trying the validity of the titles of persons holding, or claiming a right to hold, lands exempted from the payment of revenue to Government, under grants not being of the description of those termed bádsháhí or royal; and for determining the amount of the annual assessment to be imposed on lands so held, which may be adjudged or become liable to the payment of public revenue.

1. By the ancient law of the country the ruling power is entitled to a certain proportion of the produce of every bighá of land (demandable in money or kind, according to local custom), unless it transfers its right thereto for a term or in perpetuity, or limits the public demand upon the whole of the lands belonging to an individual, leaving him to appropriate to his own use the difference between the value of such proportion of the produce and the sum payable to the public, whilst he continues to discharge the latter. Preamble.

As a necessary consequence of this law, if a zamindár made a grant of any

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* This Regulation has been declared to apply to the whole of Bengal except the Scheduled Districts by Act XV of 1874, s. 6. It has also been declared in force by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2, in the Sonthal Pergunnahs, and under s. 3 of the Scheduled Districts Act, 1874, in West Jalpáiguri, the districts of Hazáribágh, Lohardugga and Manbhoom, and Pergunnah Dhalbhoom—*see infra*, pp. 625 and 648.

Such parts of the Regulation as require a specification of the names of villages or other subdivisions in the registers, or as require a specification of the measurements or rents of land, or as require counterparts of the registers to be prepared in the Bengali and Hindustani languages, and copies to be sent to the Civil Judges, have been repealed by Ben. Reg VIII of 1800, ss. 11, 12 and 15, respectively.

~~The whole Regulation has been repealed in the territories to which the Assam Land and Revenue Regulation, 1886, extends~~—see Reg. I of 1880, s. 2, Assam Supplement.

part of his lands to be held exempt from the payment of revenue, it was considered void, from being an alienation of the dues of Government without its sanction.

Had the validity of such grants been admitted, it is obvious that the revenue of Government would have been liable to gradual diminution.

Previous, however, to the Company's accession to the Diwáni, numerous grants of this description were made, not only by the zamindárs, but by the officers of Government appointed to the temporary superintendence of the collection of the revenue, under the pretext that the produce of the lands was to be applied to religious or charitable uses.

Of these grants some were applied to the purposes for which they were professed to have been made, but in general they were given for the personal advantage of the grantee, or with a view to the clandestine appropriation of the produce to the use of the grantor, or sold to supply his private exigencies.

In conformity to the principles which prevailed under the Native Administration, the British Government have at various times declared all grants for holding land exempt from the payment of revenue made since the date of the Company's accession to the Diwáni, without their sanction, illegal and void.

Their lenity, however, induced them to adopt it as a principle that grants of this description made previous to the date of the Diwáni, and provided the grantees had obtained possession, should be held valid to the extent of the intentions of the grantor, as ascertainable from the terms of the writings by which the grants might have been made, or from their nature and denomination.

But no complete register of these exempted lands having been formed upon the Company's accession to the Diwáni, nor subsequent to that period, many zamindárs, as well as the temporary farmers of the public revenue, and the officers of Government to whom the collection of the revenue in the different districts has been occasionally committed, in consequence of the zamindárs refusing to pay the revenue demanded of them, have availed themselves of the above-mentioned rule of limitation to make grants of extensive tracts of land to others, or in the names of their relations or dependants, for their own use, dating the deeds for these alienations previous to the Company's accession to the Diwáni, or procuring them to be registered in the zamindári records as having been alienated prior to that period.

Others have made such alienations without antedating the grants, and left it to the grantee to maintain himself in possession by such means as circumstances might afford, in the event of his title being brought into question.

The Governor General in Council deeming it incumbent on him to recover

the public dues thus alienated in opposition to the ancient and existing laws of the country, as well as to resume the revenue of all lands the grants for which might expire; and as the proprietors of estates were not entitled to collect such of the public dues from the lands included in their estates, as Government had judged it advisable to transfer to individuals, or to resume those which had been alienated by themselves or others, the amount in both cases being excluded from the assets on which the settlement was to be concluded, it was made a rule at the time of forming the decennial settlement, and which has been re-enacted by section 36, Regulation VIII, 1793, that the jama assessed upon the estates of individuals was to be considered as exclusive and independent of all existing lákhiráj lands, whether exempted from the khiráj or public revenue, with or without due authority; and by the third clause of the seventh article of the Proclamation contained in Regulation I, 1793, which specifies the conditions under which Government declared the decennial settlement permanent, it is expressly stipulated that the Governor General in Council will impose such assessment as he may deem equitable on all lands at present alienated and paying no public revenue, which have been or may be proved to be held under illegal or invalid titles.

The Governor General in Council, however, at the same time that he is desirous of recovering the public dues from lands which have been illegally alienated, is equally solicitous that persons holding such grants under titles that are declared valid should be secured in the possession and enjoyment of their property.

It is likewise his wish that the recovery of the dues of Government from those lands which have been illegally alienated previous to the 1st December, 1790, should be attended with as little distress as possible to the possessors; and, to obviate all injustice or extortion in the inquiry into the titles of persons holding exempted lands, he has further resolved that the claims of the public on their lands (provided they register the grants as required in this Regulation) shall be tried in the Courts of Judicature, that no such exempted lands may be subjected to the payment of revenue until the titles of the proprietor shall have been adjudged invalid by a final judicial decree.

Upon the above grounds, and with a view to facilitate the recovery of the public dues from lands held exempted under invalid grants, as well as to prevent any similar alienations being hereafter made, to the prejudice of the security of the public revenue which has been assessed in perpetuity upon the estates of individuals; and further, that Government and the officers employed in the collection of the public revenue may at all times have in their possession a correct register of the lands in the several zilas held

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exempt from the payment of revenue, the following rules, containing the rules passed on the 1st December, 1790, with modifications, have been enacted[a]:

Validity of grants of alienated land made before and after 12th August, 1765.

2. *First.*—All grants for holding land exempt from the payment of revenue made previous to the 12th August, 1765, the date of the Company's accession to the Diwáni, by whatever authority, and whether by a writing or without a writing, shall be deemed valid, provided the grantee actually and *boná fide* obtained possession of the land so granted previous to the date above mentioned, and the land shall not have been subsequently rendered subject to the payment of revenue by the officers or the orders of Government.

If it shall be proved, to the satisfaction of the Court, that the grantee did not obtain possession of the land so granted previous to the 12th August, 1765, or that he did obtain possession of it prior to that date, but that it has been since subjected to the payment of revenue by the officers or the orders of Government, the grant shall not be deemed valid.

Reference of doubtful claims to Governor General in Council.

Second.—In the event, however, of a claim being preferred by any person to hold land exempt from the payment of revenue, under a grant made previous to the date of the Company's accession to the Diwáni, and of it being proved, to the satisfaction of the Court in which the suit may be instituted in the first instance, or to which it may be appealed, that the grantee held the land exempt from the payment of revenue previous to that date, but that it was subjected to the payment of revenue posterior thereto by an officer of Government, and the Court shall entertain doubts as to the competency of such officer, under the powers vested in him, to subject the lands to the payment of revenue, the Court shall suspend its judgment and report the circumstances to the Governor General in Council, to whom a power is reserved of determining whether such officer was or was not competent to subject the land to the payment of revenue; and, upon receiving the determination of the Governor General in Council, the Court is to decide accordingly.

No such claim, however, to hold exempt from the payment of revenue land that may have been subjected to the payment of revenue for the twelve years preceding the date on which the claim may be instituted shall be heard by any Zila or City Court, unless the claimant can show good and sufficient

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[a] The rules prescribed in this Regulation for determining the validity of grants for holding lands exempt from payment of public revenue have been declared applicable to grants for holding lands under mukarrari or other tenures limiting the demand of Government, by Ben. Reg. II of 1819, s. 4—see *infra*, p. 147; as to their applicability in the zila of Cuttack, see Ben. Reg. XII of 1805, s. 24, *infra*, p. 30.

cause for not having preferred the claim to a competent jurisdiction within the twelve years.[a]

Third.—But no part of the two preceding clauses is to be construed to empower the Courts to adjudge any person, not being the original grantee, entitled to hold exempt from the payment of revenue land now subject to the payment of revenue, under a grant made previous to the Company's accession to the Diwáni, the writing for which may expressly specify it to have been given for the life of the grantee only: or supposing no such specification to have been made in the writing, or the writing not to be forthcoming, or no writing to have been executed, where the grant, from the nature and denomination of it, shall be proved to be a life-tenure only according to the ancient usages of the country. No persons, not being original grantees, entitled to hold lands free of revenue.

Fourth.—Nor to entitle the heirs of any person now holding land exempt from the payment of public revenue under a grant made previous to the Diwáni, to succeed to and hold such land exempt from the payment of revenue upon the demise of the present possessor, where the writing for such grant may expressly specify it to have been given for the life of the grantee only; or supposing no such specification to have been made in the writing, or the writing not to be forthcoming, or no writing to have been executed, where, from the nature and denomination of the grant, it shall be proved to be a life-tenure only, according to the ancient usages of the country. Nor also heirs of present possessors.

Nor to entitle the heir to any such person to hold the lands exempt from the payment of revenue after his demise, supposing the writing for the grant not to specify whether it was to be considered hereditary or otherwise; unless it shall be proved, to the satisfaction of the Court, that the grant, from the nature and denomination of it, is hereditary according to the ancient usages of the country.

But upon the demise of the present possessor of any such grant, which may be adjudged not hereditary under this clause, if it shall appear that one or more successions, in virtue of whatever right, shall have taken place before the date of the Diwáni, the lands shall not be subjected to the payment of revenue under the decree without the sanction of the Governor General in Council, to whom a copy of the proceedings and decree of the Court is to be transmitted, and to whom is reserved a power of declaring the lands subject to the payment of revenue or not, as may appear to him proper.

Fifth.—The present possessors of lands now exempt from the payment of revenue, under such life-grants made previous to the Diwáni, and declared by Present possessors prohibited from

[a] The rest of the second clause of s. 2, repealed by Act XVI of 1874, s. 1, has been omitted.

transferring or mortgaging grants.

the preceding clause not to be hereditary, are prohibited from selling or otherwise transferring them, or mortgaging the revenue of them for a longer period than their own lives, and all such transfers and mortgages are declared illegal and void.

It is to be understood, however, that if any such life-grants shall have been confirmed as hereditary tenures by Government, or by the officers of Government empowered so to confirm them, they are not to be liable to the payment of revenue on the death of the present possessor, and are to be excepted from the other rules contained in this and the preceding clause.

If doubts shall arise in any Court as to the competency of the authority of any officer of Government to confirm any such life-grant as hereditary, the Court is to suspend its judgment, and report the circumstances to the Governor General in Council, to whom a power is reserved of determining finally whether such officer possessed competent authority to confirm the grant as hereditary or not, and the Court, upon receiving the determination of the Governor General in Council, is to decide accordingly.

All grants made or confirmed since Diwáni declared invalid.

3. *First.*—All grants for holding land exempt from the payment of revenue, which may have been made since the 12th August, 1765, and previous to the 1st December, 1790, corresponding with the 18th Aghan, 1197, Bengal era, the 10th Aghan, 1198, Fasli, the 18th Aghan, 1198, Wiláiyati, by any other authority than that of Government, and which may not have been confirmed by Government, or by any officer empowered to confirm them, are declared invalid.

Courts how to proceed, in case of doubt of authority of officer confirming grant

Second.—If doubts shall be entertained by any Court as to the competency of the authority of any officer to confirm any such grant, the Court is to suspend its judgment, and report the circumstances of the case to the Governor General in Council, to whom a power is reserved of determining finally whether the officer possessed competent authority to confirm the grant, or otherwise, and the Court, upon receiving the determination of the Governor General in Council, shall decide accordingly.

Exception in favour of grants made by chiefs of provincial councils.

Third.—The rule contained in clause first is not to be considered to extend to authorise the subjecting to the payment of revenue land held exempt from the payment of it under grants made previous to the commencement of the Bengal year 1178, or the Fasli or Wiláiyati year 1179 (according as the land may be situated in Bengal, Behar or Orissa), under the signature of the chiefs of the late provincial councils and the seals of those councils, agreeably to an authority vested in them by Government for granting land to be held exempt from the payment of revenue, the annual produce of which did not exceed one hundred rupees.

And also of

Fourth.—Nor to authorise the subjecting to the payment of revenue any

land the grants for which, whether for the life of the grantee or otherwise, were made previous to the commencement of the Bengal year 1178, or the Fasli or Wiláiyati year 1179 (according as the land may be situated in Bengal, Behar or Orissa), where the quantity of land granted shall not exceed ten bighás, and the produce of it is *bond fide* appropriated as an endownment on temples, or to the maintenance of Bráhmans, or other religious or charitable purposes. certain grants made for religious or charitable purposes.

The rule in this clause is declared to extend also to all grants of land whatever, not exceeding ten bighás, made previous to the Diwáni, the produce of which may be now so appropriated.

4. This Regulation, as far as regards lands alienated previous to the 1st December, 1790, respects only the question whether they are liable to the payment of revenue or otherwise. Disputes regarding proprietary right.

Every dispute or claim regarding the proprietary right in lands alienated previous to that date, and which, in conformity to this Regulation, may become subject to the payment of revenue, is to be considered as a matter of a private nature, to be determined by the Courts of Diwáni Adálat, in the event of any dispute or claim arising respecting it between the grantee and the grantor, or their respective heirs or successors.

The grantees, or the present possessors, until dispossessed by a decree of the Diwáni Adálat, are to be considered as the proprietors of the lands, with the same right of property therein as is declared to be vested in proprietors of estates or dependent taluqs (according as the land may exceed or be less than one hundred bighás as specified in sections 6, 7 ~~and 21~~[a]) subject to the payment of revenue, and they are to execute engagements for the revenue with which their lands may be declared chargeable, either to Government, or to the proprietor or farmer of the estate in which the lands may be situated, or to the officer of Government (according as the revenue of the estate in which the land may be situated may be payable by the proprietor or a farmer, or collected khás), under the rules for the decennial settlement. Ref. x 11 of 1859

If by the decision of the Diwáni Adálat the proprietary right in the land shall be transferred, the person succeeding thereto is, in like manner, to be responsible for the payment of the revenue assessed or chargeable thereon.

5. By continuing the proprietary right in the land to the grantee or possessor, in the cases specified in the preceding section, instead of dispossessing him of the land altogether, agreeably to former usage, and assessing the land in the mode prescribed in the two following sections, a liberal provision will be left to him. Effect of continuing proprietary right to grantee in possession.

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[a] S. 21 of this Regulation has been repealed—see *infra*, p. 46.

Where the grant may have been made before the Bengal year 1178, or the Fasli or Wiláiyati year 1179, the proprietor will hold his land as an estate paying a fixed revenue of only half the amount assessed on other málguzári lands in the country;

and, where the grant may have been made subsequent to the above-mentioned periods, he will hold the land as subject to the payment of the same revenue as other lands assessed with revenue, under the rules for the decennial settlement, as hereafter directed.

To whom revenue assessed on lands, not exceeding 100 bighás, alienated before 1st December, 1790, is to belong.

6. The revenue assessable under section 9 on land not exceeding one hundred bighás of the measurement that may prevail in the pargana wherein it may be situated, and whether lying in one village, or two or more villages, and that may have been alienated by any one grant made previous to the 1st December, 1790, and which may be adjudged or become liable to the payment of revenue, shall belong to the person responsible for the discharge of the revenue of the estate or dependent taluq in which the land may be situated, notwithstanding anything said in section 8, Regulation I, 1793;

and he shall not be liable to the payment of any additional revenue on account of the assessment which may be chargeable on such lands during the continuance of the engagement under which he may pay the revenue of such estate or dependent taluq, when the land may be so adjudged liable to the payment of revenue.

If the estate or dependent taluq shall be held khás, when the lands are decreed liable to the payment of revenue, the amount is to be collected by, and paid to, whomsoever the rents and revenue of the estate or taluq may be payable, until a settlement shall be concluded for the revenue of it, either with the proprietor or a farmer.

The land which may be so adjudged subject to the payment of the revenue is to be considered as a dependent taluq.

Revenue on lands exceeding 100 bighás, alienated prior to 1st December, 1790, to belong to Government.

7. The revenue assessable under section 8 on land exceeding one hundred bighás of the measurement that may prevail in the pargana wherein it may be situated, and whether lying in one village, or two or more villages, and alienated by any one grant made previous to the 1st December, 1790, and which may be adjudged or become liable to the payment of revenue, is declared to belong to Government.

The lands specified in this section, which may be adjudged liable to the payment of revenue, are to be considered as independent taluqs.

Rules for assessment under section 7.

8. *First.*—The amount of the revenue payable from the lands specified in section 7 is to be adjusted according to the following rules:

If grant made

Second.—If the grant shall have been made previous to the Bengal year

✓ Printed supra p. 1.

1178, or the Fasli or Wiláiyati year 1179 (according as the lands may be situated in Bengal, Behar or Orissa), the revenue to be paid to Government shall be equal to one-half of the annual produce of the land, calculating according to the rates at which other lands in the pargana of a similar description may be assessed. previous Bengal year 1178, or Fasli or Wiláiyati year 1179.

If any part of the land shall be uncultivated, the proprietor is to be required to bring it into cultivation, and to pay such rasad or progressive increase, to be regulated with a reference to the reduced rate of the assessment on the cultivated land, as the Board of Revenue, with the sanction of the Governor General in Council, may deem reasonable.

The produce of the land shall be ascertained by a survey and measurement, one-half of the expense attending which is to be defrayed by the proprietor, in the event of his agreeing to the jama required of him, and the other moiety by Government; or by such other mode of investigation as the Collector, with the sanction of the Board of Revenue, may judge advisable.

If the proprietor shall refuse to agree to the assessment, the lands are to be let in farm or held khás, under the rules prescribed in Regulation VIII, 1793.

If the proprietor shall agree to pay the revenue that may be required of him, the amount shall not be liable to any variation in future, but he and his heirs and successors shall hold the lands at such fixed revenue for ever.

Third.—If the grant shall have been made subsequent to the Bengal year 1178, or to Fasli or Wiláiyati year 1179 (according as the lands may be situated in Bengal, Behar or Orissa), the revenue or jama to be paid to Government from the land shall be assessed agreeably to the rules prescribed in Regulation VIII, 1793, for forming the settlement of estates paying revenue to Government, and the produce shall be ascertained, and the expense of the investigation defrayed, in the manner specified with regard to the lands in the preceding clause. If grant made after that time.

If the proprietor shall refuse to agree to the assessment, the lands are to be let in farm or held khás, under the rules for the decennial settlement.

If the proprietor shall agree to pay the revenue that may be required of him, the amount shall not be liable to any variation in future, but he and his heirs and successors shall hold the land at such fixed revenue for ever.

9. The rules in the preceding section are to be held applicable to the lands specified in section 6; with this difference, that the proprietor, farmer, dependent taluqdár or officer of Government to whom the revenue may be payable shall ascertain the produce of the land without subjecting the grantee to any expense, and submit the accounts of it to the Collector, who shall fix the revenue to be paid from the lands in perpetuity, reporting the amount for the confirm- Rule for fixing revenue on land specified in section 6.

✓ Printed *Supra* p. 20

ation of the Board of Revenue, who are empowered, in cases in which it shall appear to them proper, to increase or reduce the amount.

If the proprietor shall agree to pay the revenue required of him, he and his heirs and successors shall hold the lands as a dependent taluq, subject to the payment of such fixed revenue for ever.

Grants made since 1st December, 1790, declared void.

10.[a] All grants for holding land exempt from the payment of revenue whether exceeding or under one hundred bighás, that have been made since the 1st December, 1790, or that may be hereafter made, by any other authority than that of the Governor General in Council, are declared null and void, and no length of possession shall be hereafter considered to give validity to any such grant, either with regard to the property in the soil or the rents of it.

And every person who now possesses, or may succeed to, the proprietary right in any estate or dependent taluq, or who now holds or may hereafter hold any estate or dependent taluq in farm of Government, or of the proprietor, or any other person, and every officer of Government appointed to make the collections from any estate or taluq held khás, is authorized and required to collect the rents from such lands at the rates of the pargana, and to dispossess the grantee of the proprietary right in the land, and to re-annex it to the estate or taluq in which it may be situated, without making previous application to a Court of Judicature, or sending previous or subsequent notice of the dispossession or annexation to any officer of Government;

nor shall any such proprietor, farmer or dependent taluqdár be liable to an increase of assessment on account of such grants which he may resume and annul, during the term of the engagements that he may be under for the payment of the revenue of such estate or taluq when the grant may be so resumed and annulled.

The managers of the estates of disqualified proprietors, and of joint undivided estates, are authorized and required to exercise, on behalf of the proprietors, the powers vested in proprietors by this section.

How proprietors and farmers to recover revenue on lands specified in section 6.

11. Proprietors or farmers of land, or dependent taluqdárs, who may deem themselves entitled to the revenue of any land of the description of that specified in section 6 situated in their respective estates, farms or taluqs, are to institute a suit for the recovery of it in the Court of Diwáni Adálat.

Any proprietor or farmer of land, or dependent taluqdár, or other person, subjecting such lands to the payment of revenue, without having previously

[a] So much of s. 10 as authorises and requires proprietors and farmers of estates and dependent taluqs, in cases in which grants for holding land exempt from the payment of revenue have been made subsequent to the 1st December, 1790, of their own authority to collect the rents of such land and to dispossess the grantees of the proprietary right in the land and re annex it to the estate or taluq in which it may be situate, has been repealed by Act X of 1859, s 28—see *infra*, p. 340.

obtained a judicial decree for that purpose, shall be liable to be sued for damages by the parties injured.

Where estates or dependent taluqs may be held khás, the right of suing for the recovery of the revenue from the lands specified in section 6 is to be considered as vested in the party to whom the collections from the estate or taluq may be payable.

If the estate or taluq be held khás by Government, the tahsildár or other officer is to sue for the revenue chargeable on such lands in the room of the proprietor, but under the directions of the Collector.

12, 13, 14. [*Suits by Collectors for the recovery of invalid lákhiráj.*] *Rep. by Ben. Reg. II of 1819, s. 2.*

Suits by or against Government.

15. The Collectors of the revenue are to defend all suits that may be instituted against Government, by any individual claiming a right to hold lands exempt from the payment of public revenue, and such suits, and the suits which the Board of Revenue may direct the Collector to institute, are to be defended and prosecuted by the vakil of Government under the instructions of the Collector;

and in the event of Government being cast, either wholly or in part, or if the Collector shall be dissatisfied with the decree in any respect, all the rules contained in section 30, Regulation XIV, 1793,[a] and the other sections in that Regulation respecting decisions given against a Collector in any Zila Court, in suits instituted against him by any proprietor or farmer of land, for sums of money demanded or actually received by him as arrears of revenue, are to be held applicable to such decree; with this difference, that the suit, from the commencement of it, is to be defended or carried on at the expense of Government, and in the event of the Board of Revenue not deeming it proper to order an appeal against the decision of the Zila Court to be preferred to the Provincial Court of Appeal, or against the decision of the Provincial Court to the Sadr Diwáni Adálat, in the event of their ordering the cause to be appealed to the Provincial Court, and of its being given against them therein, they are to report their reasons, in both cases, for not preferring the appeal to the Governor General in Council, who will direct the cause to be appealed, or not, in either case as may appear to him proper.

16. [*Courts to award costs in cases of groundless prosecution.*] *Rep. by Ben. Reg. II of 1819, s. 2.*

Grants forged

17. If it shall appear to any Court of Judicature during the course of

[a] Ben Reg. XIV of 1793 has been repealed by Act XVI of 1874, but there is a reference to it saved by the provisions to that effect.

or altered in any respect or antedated, declared void.

a trial that a grant for land to be held exempt from the payment of revenue, dated prior to the 1st December, 1790, has been forged, or that the name of the original grantee has been erased and any other name substituted, or that any name not in the original grant has been inserted, or that the denomination of the tenure in the original grant has been erased or altered, or that the date of the grant has been changed, or that the grant has been antedated, the grant shall be adjudged null and void, as far as regards the exemption of the land from the payment of revenue, and the land shall be subjected to the payment of revenue accordingly.

18. [*Persons concerned in fraud liable to criminal prosecution.*] *Rep. by Act XVI of 1874, s. 1.*

19. [*Revenue to be paid from date of first decree for resumption.*] *Rep. by Ben. Reg. II of 1819, s. 2.*

Transfer of grants.

20. Grants of land, which from the terms of the grant or the nature of the tenure are hereditary, and are declared valid by this Regulation, or which have been or may be confirmed by the British Government, or any of its officers possessing competent authority to confirm them, are declared transferable by gift, sale or otherwise;

and all persons succeeding to such grants, by whatever mode, are required to register their names in the office of the Collector within six months after they may succeed to the grant.

But all such purchases are to be considered as made at the risk of the purchaser; and in the event of the grant not proving to be hereditary, or not to have been made or confirmed by the British Government, or its officers possessing competent authority, the transfer is not to preclude the land from being subjected to the payment of revenue under this Regulation.

21, 22. [*Payment of revenue, where to be made; register of lands held exempt from revenue prior to 1st December, 1790.*] *Rep. by Ben. Act VII of 1876, s. 2.*

23. [*Form for periodical Register.*] *Rep. by Act VIII of 1868, s. 1.*

Time for registry of grants.

24. All persons actually holding lands exempt from the payment of public revenue, whether exceeding or under one hundred bighás, in virtue of grants made previous to the 1st December, 1790, and whether made or confirmed by the Government of the country for the time being, or any other authority, shall be allowed one year from the date of the publication prescribed in the following section to register the required particulars respecting their grants in the office of the Collector of the revenue of the zila in which the lands may be situated.

Publication to

25. To prevent any pleas being hereafter urged of ignorance of the rule

contained in the preceding section, the Collector of each zila, upon the receipt of this Regulation, is to cause the following publication, which shall be written in the Bengal and Persian languages in Bengal and Orissa, and in the Persian language and the Hindustáni language and Nágri character in Behar, and attested with their official seals and signatures, to be fixed up in the principal kachahri of every proprietor and farmer of land in the zila paying revenue immediately to Government; and of every Native Collector in lands held khás by Government; be made requiring all persons to register grants.

and where the estate of any proprietor with whom a settlement may have been concluded, or the farm of any farmer, or lands held khás, shall consist of two or more whole parganas, or portions of parganas, he shall cause the publication to be fixed up in the principal kachahri in each pargana, or portion of a pargana, comprised in such estate, farm or khás lands, and take a receipt, specifying the date on which the publication may be fixed up, from such proprietor, farmer or Native officer, who shall respectively be held responsible for the paper remaining so affixed for one year from the date of it:

"In conformity to Regulation XIX, 1793, every person being actually in possession of brahmottar, bishnprit or other land now exempt from the payment of revenue, in the estate of ———, or the farm of ———, or the khás lands under the charge of ———, whether exceeding or under one hundred bighás of the measurement of the pargana in which the land may be situated, and whether comprising or lying in one village, or two or more villages, and which may be held in virtue of any grant made previous to the 1st December, 1790, corresponding with the 18th Aghan, 1197, Bengal era, the 10th Aghan, 1198, Fasli, the 18th Aghan, 1198, Wiláiyati, and whether made or confirmed by the Government of the country for the time being, or its officers, or any other authority, are required to register the following particulars respecting such lands in the office of the Collector of the zila, before the expiration of one year from the date of this publication. Publication.

"If any holders of such grants, who shall not so register their grants either in person or by vakil, with a vakálatnáma attested by two credible witnesses, and given for the express purpose of registering the grant, the lands will be considered liable to the payment of revenue, in the same manner as if they had been adjudged to be so by a final decree of a Court of Judicature.

"Persons having claims only to hold land exempt from the payment of revenue, but who do not now hold the lands exempt from the payment of revenue, are not to register the land so claimed by them:

"Denomination of the grant, whether bishnprit, brahmottar or other tenure.

"Name of the grantor.

"Name of the original grantee.

"Name of the present possessor, and, if he be not the original grantee, his relationship to him, and whether he succeeded to the land hereditarily, or by purchase, or what other mode.

"Date of the deed, if the grant be in writing, and, if not, the date on which the grant was made.

"The name or names of the village or villages comprised in the grant, or in which the land may be situated.

"The measurement of each village, or the villages or the land included in the grant.

"The pargana or parganas in which the lands may be situated.

"A copy of the original grant, or other writings, under which the land may be held."

Lands not registered within prescribed time.

26. If any person in possession of any such grant of land now held exempt from the payment of revenue shall omit to register it by the time prescribed in the publication, together with as accurate a detail of the particulars thereby required as he may be able to furnish, the land included in the grant shall, by such omission, become subject to the payment of revenue, in the same manner as if it had been adjudged liable to the payment of revenue by a final decree of a Court of Judicature, and the Collector, if the land shall exceed one hundred bighás, shall proceed to assess the lands accordingly; and, if it shall be under one hundred bighás, the party to whom the revenue of the land may be payable under section 6 is empowered to assess the lands as therein directed.

The Governor General in Council, however, reserves to himself the power of admitting any grant upon the register after the expiration of the prescribed time, in the event of the possessor of the land showing good and sufficient cause, to his satisfaction, for not having registered it within the limited period, and the Board of Revenue are to report to the Governor General in Council every case in which persons who may have omitted to register their grants as required may appear to them entitled to have their grants admitted upon the register.

Grants not registered within prescribed period, &c, invalid.

27. After the expiration of the period limited for registering grants, all grants not registered within the prescribed time, and which may not be subsequently admitted on the register by the Governor General in Council, are declared invalid, as far as regards the exemption from the payment of revenue, and the land shall be assessed with revenue as directed in section 26.

Effect of

28 It is expressly declared, however, that the registry of grants under

this Regulation is not to be considered as an admission of the right of the person in whose name they may be registered to the property in the soil, or of his title to hold the lands exempt from the payment of revenue. registry of lands.

Any person will be at liberty to sue him in the Diwáni Adálat for the former, and he will be liable to be sued for the recovery of the latter by the Collector, with the sanction of the Board of Revenue, in the event of it appearing to that Board that the lands are liable to the payment of revenue.

29 to 34.—[*Preparation of registers; counterpart registers; entries regarding exempted lands and documents respecting same.*] *Rep. by Ben. Act VII of 1876, s. 2.*

35. Upon the arrival of the period when the separation is to be carried into effect, the Collector of the zila from which the separation may be directed to be made is to transmit to the Judge of the Diwáni Adálat of his zila[a] copies of the entries in the last periodical register and register of intermediate resumptions, which may relate to the grants to be separated from his zila; How separations and annexations of exempted lands are to be notified to the Courts.

and the Collector to whose zila the annexation may be made is to transmit copies of the above-mentioned entries (with which he is directed to be furnished in the preceding section) to the Judge of the zila[a] in which it may be included.

Immediately upon the receipt of these papers, the Courts, from the jurisdiction of which the separations may be made, are to transmit the papers in the causes depending before them, which in consequence of the separation may become cognizable in any other[a] Zila Court, to such Court, and to cause notification thereof to be communicated to the parties in writing.

36 to 44.—[*Registers of intermediate resumptions and periodical registers; correction of errors in same; registry of disputed grants; liability of holders of grant to furnish information; to whom copies of periodical registers are to be sent.*] *Rep. by Ben. Act VII of 1876, s. 2.*

45, 46.[b]—[*Penalty for receiving bribes in connection with the registry of grants.*] *Rep. by Act XII of 1876, s. 1.*

47. All the rules in this Regulation respecting lands now held, or that may be claimed to be held, exempt from the payment of revenue, under life-grants made previous to the date of the Company's accession to the Diwáni, are to be considered equally applicable to grants made previous to that date for a term only. Rules respecting life-grants applicable to grants for a term.

48. No part of this Regulation is to be considered to annul any grants for Saving of grants made

[a] Certain words in s. 35, repealed by Act XVI of 1874, s. 1, have here been omitted.
[b] Ss. 45 and 46 have also been repealed in Bengal by Ben. Act VII of 1876, s. 2.

or confirmed by late superintendents of the bázi-zamin daftar,

holding land exempt from the payment of revenue, made or confirmed by the late superintendents of the bázi-zamin daftar in Bengal, in virtue of the powers vested in them

and of bad sháhi grants

49 Nor to extend to jágir, altamghá, mudadmásh, aima or other grants of land termed bádsháhi or royal, and held, or stated to be held, under a royal farmán

The rules applicable to such grants are contained in Regulation XXXVII, 1793

REGULATION XXXVII OF 1793 [a]

Passed on the 1st May, 1793.

A Regulation for re-enacting, with modifications, the rules passed on the 23rd April, 1788, and subsequent dates, for trying the validity of the titles of persons holding or claiming a right to hold altamghá, jágir and other lands exempt from the payment of public revenue, under grants termed bádsháhi or royal, and for determining when certain grants of that description shall be considered to have expired, and for fixing the amount of the public revenue to be assessed upon the lands the grants for which may expire or be adjudged invalid

Preamble

1 By the ancient law of the country the ruling power is entitled to a certain proportion of the produce of every bighá of land, unless it transfers its right thereto for a term or in perpetuity

As a necessary consequence of this law every grant or alienation of Government's proportion of the produce of lands without its sanction was considered null and void.

Had the validity of such grants or alienations been admitted it is obvious that the public revenue would have been liable to gradual diminution.

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[a] This Regulation has been declared to apply to the whole of Bengal except the Scheduled Districts by Act XV of 1874, s 6 It has also been declared in force by Reg III of 1872 s 3 as amended by Reg III of 1880, s 2 in the Sonthal Pergunnahs, and under s 3 of the Scheduled Districts Act 1874, in West Jalpáiguri—see *infra* p 625

~~The whole Regulation has been repealed in the territories to which the Assam Land and Revenue Regulation, 1886, extends—see Reg I of 1886, s 2, posm Supplement.~~

Such parts of this Regulation as require a specification of the names of villages or other sub divisions in the registers or as require a specification of the measurements or rents of land or as require counterparts of the registers to be prepared in the Bengali and Hindustani language s and copies to be sent to the Civil Judges, have been repealed by Ben Reg VIII of 1800, ss 11, 12 and 15, respectively

Under the Native Government grants were occasionally made of the Government's share of the produce of lands, for the support of the families of persons who had performed public services, for religious or charitable purposes, for maintaining troops and for other services.

The British Government continued to the grantees or their heirs such of these grants as were hereditary, and were made before the date of the Company's accession to the Diwáni, provided the grantees or their heirs had obtained possession previous to that date; but those grants which were for life only have been invariably considered as resumable on the death of the grantees.

No complete register of these grants having been formed on the Company's accession to the Diwáni, nor subsequent to that period, many persons have retained possession of lands under fabricated or antedated grants, or have succeeded to life-grants on the demise of the original grantee or former possessor, without the sanction of Government.

The Governor General in Council deeming it incumbent on him to resume the public dues from lands held under invalid tenures, as well as the revenue of all lands the grants for which might expire, and as the proprietors of estates were not entitled to collect such of the public dues from the lands included in their estates as Government had judged it advisable to transfer to individuals, or to resume those which had been alienated or were appropriated without authority, the amount of the revenue of the lands having in both cases been excluded from the assets on which the settlement was to be concluded, it was made a rule at the time of forming the decennial settlement, and which has been re-enacted by section 36, Regulation VIII, 1793, that the jama assessed upon the estates of individuals was to be considered as exclusive and independent of all existing lákhiráj lands, whether exempted from the khiráj or public revenue, with or without due authority;

and by the third clause of the seventh article of the Proclamation contained in Regulation I, 1793, which specifies the conditions under which Government declared the decennial settlement permanent, it is expressly stipulated that the Governor General in Council will impose such assessment as he may deem equitable on all lands at present alienated and paying no public revenue which have been or may be proved to be held under illegal or invalid titles.

The Governor General in Council, however, at the same time that he is desirous of recovering the public dues from lands held under invalid tenures, is equally solicitous that persons holding lands under grants that are declared valid should be secured in the quiet possession and enjoyment of them.

by Printed supra p 20
✓ Printed supra p 1

With this view, and to obviate all injustice or extortion in the inquiry into the titles of persons possessing lands under such grants, he has resolved that all claims of the public for the resumption of such grants (provided the grantees or persons in possession register their grants as required in this Regulation) shall be tried in the Courts of Judicature, that no such grants may be resumed until the title of the grantee or present possessor shall have been adjudged invalid by a final judicial decree.

Upon the above grounds, and with a view to facilitate the resumption of invalid grants, as well as to prevent any grants being hereafter made without the authority of Government, and further that Government and its officers may at all times have in their possession a correct register of the lands in the several zilas held exempt from the payment of revenue under bádsháhi grants, the following rules, containing the rules passed on the 23rd April, 1788, and subsequent dates, with modifications, have been enacted:[a]

Bádsháhi grants made before Diwáni.

2. *First.*—Altamghá, jágir, aima, madadmásh or other bádsháhi grants for holding land exempt from the payment of revenue, made previous to the 12th August, 1765, the date of the Company's accession to the Diwáni, shall be deemed valid, provided the grantee actually and *bond fide* obtained possession of the land so granted previous to that date and the grant shall not have been subsequently resumed by the officers or the orders of Government.

If it shall be proved to the satisfaction of the Court that the grantee did not obtain possession of the land so granted previous to the 12th August, 1765, or that he did obtain possession of it prior to that date, but that it has been since resumed by the officers or the orders of Government, the grant shall not be deemed valid.

Procedure in case of doubts as to authority of officer having resumed grants.

Second.—In the event, however, of a claim being preferred by any person to hold land exempt from the payment of revenue, under a bádsháhi grant made previous to the date of the Company's accession to the Diwáni, and on it being proved to the satisfaction of the Court in which the suit may be instituted in the first instance, or to which it may be appealed, that the grantee held the land exempt from the payment of revenue, but that it was subjected to the payment of revenue posterior thereto by an officer of Government, and the Court shall entertain doubts as to the competency of such officer, under the powers vested in him, to resume the grant and subject the lands to the pay-

[a] The rules prescribed in this Regulation for determining the validity of grants for holding lands exempt from payment of public revenue have been declared applicable to grants for holding lands under mukarrari or other tenures limiting the demand of Government, by Ben. Reg. II of 1819, s. 4—see *infra*, p. 147; as to their application to the zila of Cuttack, see Ben. Reg. XII of 1805, s 25, *infra*, p. 87.

ment of revenue, the Court shall suspend its judgment and report the circumstances to the Governor General in Council, to whom a power is reserved of determining whether such officer was or was not competent to resume the grant; and, upon receiving the determination of the Governor General in Council, the Court is to decide accordingly.

No such claim, however, to hold exempt from the payment of revenue land that may have been subjected to the payment of revenue for the twelve years preceding the date on which the claim may be instituted, shall be heard by any Zila or City Court, unless the claimant can show good and sufficient cause for not having preferred the claim to a competent authority within the twelve years, and proceeded in it, as required by section 14, Regulation III, 1793.*

Persons not being original grantees not entitled to hold lands free;

* *Third.*—But no part of the two preceding clauses is to be construed to empower the Courts to adjudge any person, not being the original grantee entitled to hold land paying revenue to Government, exempt from the payment of revenue, under a jágir or other grant made previous to the Company's accession to the Diwáni, where the grant may expressly specify it to have been given for the life of the grantee only; or, supposing no such specification to have been made in the grant, or the grant not to be forthcoming, where the grant, from the nature and denomination of it, shall be proved to be a life-tenure only, according to the ancient usages of the country.

nor also heirs of persons now possessing exempted lands under life-grants made previous to Diwáni.

Fourth.—Nor to entitle the heirs of any person now holding lands exempt from the payment of public revenue under a jágir or other bádsháhi life-grant, made previous to the Diwáni, to succeed to and hold such land exempt from the payment of revenue upon the demise of the present possessor; where the grant may expressly specify it to have been given for the life of the grantee only, or supposing no such specification to have been made in the grant, or the grant not to be forthcoming, where from the nature and denomination of the grant it shall be proved to be a life-tenure only, according to the ancient usages of the country.

Present possessors not to transfer or mortgage grants.

Fifth.—The present possessors of lands now exempt from the payment of revenue under such jágir or other life-grants made previous to the Diwáni, and declared by the preceding clause not to be hereditary, are prohibited from selling or otherwise transferring them, or mortgaging the revenue of the lands for a longer period than their own lives, and all such transfers and mortgages which have been or may be made are declared illegal and void.

Certain grants

3. *First.*—All bádsháhi grants for holding land exempt from the payment

* Ben. Reg. III of 1793 ~~has been~~ repealed by Act ~~VI of 1871~~. VIII of 1868, but this reference is saved by the provisions of that act.

made or confirmed since Diwáni declared invalid.

of revenue, which may have been made since the 12th August, 1765, by any other authority than that of Government, and which may not have been confirmed by Government, or by any officer empowered to confirm them, are declared invalid.

Procedure in cases of doubt of authority of officer confirming grant.

Second.—If doubts shall be entertained by any Court as to the competency of the authority of any officer to confirm any such grant, the Court is to suspend its judgment and report the circumstances of the case to the Governor General in Council, to whom a power is reserved of determining finally whether the officer possessed competent authority to confirm the grant, or otherwise, and the Court, upon receiving the determination of the Governor General in Council, shall decide accordingly.

Questions regarding proprietary right to be determined in Diwáni Adálat.

4. It is to be understood that this Regulation respects only the Government proportion of the revenue arising from lands held or claimed to be held under bádsháhi grants, and whether Government is entitled to resume or retain such revenue or otherwise.

Every dispute or claim regarding the zamindári or proprietary right in lands included in any grant is to be considered as a matter of a private nature between the contending parties, and is to be determined in the Diwáni Adálat.

Collectors to attach revenue of lands in escheated grants.

5. When a jágir or other life-grant shall escheat to Government, the Collector is immediately to attach the revenue of the lands and report the circumstance to the Board of Revenue, who are to obtain the orders of the Governor General in Council regarding the resumption of the grant.

Assessment of lands included in resumed grants.

6. When any bádsháhi grant shall be resumed or expire, or escheat to Government, the revenue to be paid to Government from the lands included in it shall be assessed, and the settlement made in perpetuity, agreeably to the rules for the decennial settlement contained in Regulation VIII, 1793, with the person possessing the zamindári or proprietary right in the lands, whoever he may be.

If the proprietor shall refuse to pay the jama demanded of him, the land shall be held khás or let in farm, as directed in that Regulation.

7, 8, 9. [*Suits by Collectors for the recovery of invalid lákhiráj.*] *Rep. by Ben. Reg. II of 1819, s. 2 (2).*

Suits against Government by persons claiming to hold lands paying revenue exempt from revenue

10. Any person having a claim to hold lands paying revenue exempt from the payment of revenue under a bádsháhi grant must institute his claim against Government, who alone can be the defendant in such suits, in the Diwáni Adálat of the zila, in the same manner as in cases where individuals may claim a right to hold lands paying revenue exempt from the payment of

✓ Printed supra p. 20.

revenue under grants not of the description of those termed bádsháhi, in virtue of Regulation XIX, 1793. under bádsháhi grants.

The Collectors of the revenue are to defend all such suits as may be instituted against Government, and such suits, and the suits which the Board of Revenue may direct the Collector to institute, are to be defended or prosecuted by the vakil of Government, under the instructions of the Collector;

and in the event of Government being cast, either wholly or in part, or if the Collector shall be dissatisfied with the decree in any respect, all the rules contained in section 30, Regulation XIV, 1793,[a] and the other sections in that Regulation respecting decisions given against a Collector in any Zila Court, in suits instituted against him by any proprietor or farmer of land, for sums of money demanded or actually received by him as arrears of revenue, are to be held applicable to such decree, with this difference, that the suit, from the commencement of it, is to be defended or carried on at the expense of Government, and in the event of the Board of Revenue not deeming it proper to order an appeal from the decision of the Zila Court to be preferred[b] to the Sadr Diwáni Adálat,[b] they are to report their reasons[b] for not preferring the appeal to the Governor General in Council, who will direct the cause to be appealed or not, in either case, as may appear to him proper.

11. [*Courts to award costs in case of groundless prosecution.*] *Rep. by Ben. Reg. II of 1819, s. 2 (2).*

12. If it shall appear to any Court of Judicature, during the course of a trial, that a grant has been forged, or that the name of the original grantee has been erased and any other name substituted, or that any name not in the original grant has been inserted, or that the denomination or the terms of the tenure in the original grant have been erased or altered, or that date of the grant has been changed, or that the grant has been antedated, the grant shall be adjudged null and void. Grants forged or altered in any respect, or antedated, declared void.

13. [*Persons concerned in frauds liable to criminal prosecution.*] *Rep. by Act XVI of 1874, s. 1.*

14. [*Revenue to be paid from date of first decree of resumption.*] *Rep. by Ben. Reg. II of 1819, s. 2 (2).*

15. Altamghá, aima and madadmásh grants are to be considered as hereditary tenures. Transfer of grants.

These and other grants, which from the terms or nature of them may be hereditary and are declared valid by this Regulation, or which have been or may be confirmed by the British Government, or any of its officers possessing

[a] Ben. Reg. XIV of 1793 has been repealed by Act XVI of 1874.
[b] Certain words in s. 10, repealed by Act XVI of 1874, s. 1, have here been omitted.

competent authority to confirm them, are declared transferable by gift, sale or otherwise, and all persons succeeding to such grants, by whatever mode, are required to register their names in the office of the Collector, within six months after they may succeed to the grant.

But all such purchases are to be considered as made at the risk of the purchaser; and in the event of the grant not proving to be hereditary, or not to have been made or confirmed by the British Government, or its officers possessing competent authority, the transfer is not to preclude the land from being subjected to the payment of revenue under this Regulation.

Jágirs are to be considered as life-tenures only, and with all other life-tenures are to expire with the life of the grantee, unless otherwise expressed in the grant.

16, 17, 18. [*Record of lands which may become liable to, or exempt from, the payment of revenue; register of bádsháhi grants; form of periodical register.*] *Rep. by Ben. Act VII of 1876, s. 2.*

Time for registry.

19. All persons actually holding lands exempt from the payment of public revenue under bádsháhi grants, and whether made or confirmed by the Government of the country for the time being, or by whatever authority, shall be allowed one year, from the date of the publication prescribed in the following section, to register the required particulars respecting their grants in the office of the Collector of the revenue of the zila in which the lands may be situated.

Publication to be made requiring all persons to register grants.

20. To prevent any pleas being hereafter urged of ignorance of the rule contained in the preceding section, the Collector of each zila in which any jagir, altamghá, aima or madadmásh, or other lands held under sanads or grants termed bádsháhi, may be situated, upon the receipt of this Regulation is to cause the following publication, which shall be written in the Bengal and Persian languages in Bengal and Orissa, and in the Persian language and the Hindustáni language and Nágri character in Behar, and attested with their official seals and signatures, to be fixed up in the principal kachahri of the holders of grants of the description of those specified in this Regulation, and take a receipt from the holder of such grant or the person entrusted with the management of it, specifying the date on which the publication may be fixed up, and that he will be responsible for the paper remaining so affixed for one year from the date of it.

Publication.

"In conformity to Regulation XXXVII, 1793, every person being actually in possession of altamghá, jágir, aima, madadmásh or other land now exempt from the payment of revenue and held under bádsháhi grants, in the zila of——, whether made or confirmed by the Government of the country for the time being, or by whatever authority, are required to register the following

particulars respecting such grants in the office of the Collector of the zila, before the expiration of one year from the date of this publication :

"If any holders of such grants who shall not register their grants, either in person or by a vakil, with a vakálatnáma attested by two credible witnesses, and given for the express purpose of registering the grants, the grants will be considered liable to resumption, and the lands chargeable with the revenue, in the same manner as other lands subject to the payment of revenue.

"Persons having claims only to hold land exempt from the payment of revenue under such grants, but who do not now hold the lands exempted, are not to register the lands so claimed by them.

"Denomination of the grant, whether altamghá, jágir or other tenure.

"By whom granted.

"Name of the original grantee.

"Name of the present possessor, and, if he be not the original grantee, his relationship to him, and whether he succeeded to the land hereditarily or by purchase, or what other mode.

"Date of the grant.

"The name or names of the mahál or villages, or lands, comprised in the grant, or in which the land may be situated.

"The names of the zamindár or other proprietor of the mahál or villages, or lands, included in the grant, whether such zamindári or proprietary right shall be vested in the grantee or any other person.

"The measurement of each mahál or village, or the land included in the grant.

"The pargana or parganas in which the lands may be situated.

"A copy of the original grant and other writings under which the land may be held."

Grants not registered within prescribed time liable to resumption.

21. If any person in possession of any such grant that may be now in force shall omit to register it by the time prescribed in the publication, together with as accurate a detail of the particulars thereby required as he may be able to furnish, the grant shall, by such omission, become subject to resumption, and the lands shall become liable to the payment of revenue to Government.

The Governor General in Council, however, reserves to himself the power of admitting any grant upon the register after the expiration of the prescribed time, in the event of the possessor showing good and sufficient cause, to his satisfaction, for not having registered it within the limited period, and the Board of Revenue are to report to the Governor General in Council every case in which persons who may have omitted to register their grants as required may appear to them entitled to have their grants admitted upon the register.

Grants not registered considered forfeited.

22. After the expiration of the period limited for registering grants, all grants not registered within the prescribed time, and which may not be subsequently admitted on the register by the Governor General in Council, are declared forfeited, and the lands shall be assessed with revenue, agreeably to the rules prescribed for the decennial settlement.

Effect of registry of grants.

23. It is expressly declared, however, that the registry of a grant under this Regulation is not to be considered as an admission of the right of the person in whose name it may be registered to the property in the soil, nor of the validity of his grant.

Any person will be at liberty to sue in the Diwáni Adálat for the former and he will be liable to be sued for the resumption of the grant by the Collector, with the sanction of the Board of Revenue, in the event of it appearing to that Board that the grant is invalid.

24. [*Preparation of register upon expiration of period limited for registry of grants.*] *Rep. by Ben. Act VII of 1876, s. 2.*

25. [*Preparation of second periodical register.*] *Rep. by Act XVI of 1874, s. 1.*

26—29. [*Counterpart register by whom to be kept; in what native languages; manner of recording resumptions, &c.; documents respecting grants by whom to be furnished.*] *Rep. by Ben. Act VII of 1876, s. 2.*

Separations and annexations of exempted lands how notified to Courts.

30. Upon the arrival of the period when the separation is to be carried into effect, the Collector of the zila from which the separation may be directed to be made is to transmit to the Judge of the Diwáni Adálat of his zila[a] copies of the entries in the last periodical register and register of intermediate occurrences which may relate to the grants to be separated from his zila;

and the Collector to whose zila the annexation may be made is to transmit copies of the above-mentioned entries (with which he is directed to be furnished in the preceding section) to the Judge of the zila[a] in which the lands may be included.

Immediately on the receipt of these papers the Courts from the jurisdiction of which the separation may be made are to transmit the papers in the causes depending before them, which in consequence of the separation may become cognizable in any other[a] Zila Court, to such Court, and to cause notification thereof to be communicated to the parties in writing.

31—33. [*Register of intermediate occurrences not to fall into arrear; counterpart of same by whom to be kept; manner of correcting errors in registers.*] *Rep. by Ben. Act VII of 1876, s. 2.*

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[a] Certain words in s. 30, repealed by Act XVI of 1874, s. 1, have here been omitted.

LEGAL SECRETARIAT LIBRARY

34. [*Manner of correcting errors in counterpart registers.*] *Rep. by Act XVI of 1874, s. 1.*

35—41. [*Registry in case of proprietary right being under litigation; penalty for not furnishing information; to whom copies of periodical registers are to be sent; registers to be carefully preserved; from what materials the periodical register commencing with 1207 and subsequent registers are to be formed; penalty for receiving bribes.*] *Rep. by Ben. Act VII of 1876, s. 2.*

42. No part of this Regulation is to be considered to extend to lands held, or stated to be held, exempt from the payment of public revenue under grants not being of the description of those termed bádsháhi or royal. Regulation not to extend to grants not bádsháhi.

The rules applicable to such grants are contained in Regulation XIX, 1793.

REGULATION XXXVIII OF 1793.[a]

Passed on the 1st May, 1793.

A Regulation for re-enacting, with modifications, such part of the Rule passed on the 27th June, 1787, as prohibits covenanted Civil Servants of the Company employed in the administration of justice or the collection of the public revenue lending money to zamindárs, independent taluqdárs or other actual proprietors of land, or dependent taluqdárs or farmers of land holding farms immediately of Government, or the under-farmers or raiyats of the several descriptions of proprietors and farmers of land above-mentioned, or their respective sureties; ~~and for re-enacting, with alterations, the~~ existing rules prohibiting Europeans of any description holding possession of lands that may be mortgaged to them, or purchasing or renting lands for erecting houses or buildings, for carrying on manufactures or other purposes, without the ~~sanction of the Governor General in Council~~.

Rep. XII of 1891

1. At an early period after the establishment of the British Government Preamble.

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[a] This Regulation has been declared to apply to the whole of Bengal except the Scheduled Districts, by Act XV of 1874, s. 6. It has also been declared in force by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2, in the Sonthal Pergunnahs, and under s. 3 of the Scheduled Districts Act, 1874, in West Jalpáiguri, the Western Dvárs, the districts of Hazáribágh, Lohardugga and Manbhoom, Pergunnah Dhálbhoom and the Kolhan—see *infra*, pp. 626 and 648; also in the district of Sylhet—see Appendix to Assam Supplement.

✓ Printed Supra p. 35

in this country the servants of the Company employed in the administration of justice and the collection of revenue were prohibited from lending money to the landholders and farmers, and others concerned in the collection or payment of the revenue, in order to guard against the abuses that the powers with which they were invested would have enabled them to practise had they been permitted to engage in such transactions with individuals subject to their official control and authority.

This rule was incorporated with the Judicial Regulations passed on the 5th July, 1781, and has since continued in force.

Rep. by Act XII of 1891

~~From a regard to the prejudices of the Natives, and with a view to promote~~ their ease and happiness, and to obviate the evils that would necessarily have resulted from allowing any persons, not amenable to the Provincial Courts of Judicature in common with the Natives, to purchase or rent estates without restriction or limitation, or to hold any land whatever, excepting for the erection of dwelling-houses, or buildings for manufactures or other commercial purposes, it was likewise early made a rule that *no European should purchase or hold land out of the limits of Calcutta without the sanction of Government.*[a] This rule was included in the Revenue Regulations passed on the 8th June, 1787, and has since remained in ~~force.~~

The rules above-mentioned are hereby re-enacted with modifications.

Covenanted servants prohibited lending money to proprietors, &c., of land.

2. The Judges and Magistrates of the Zila Courts[b] and their Assistants, or other officers being covenanted servants of the Company, and the Collectors of the revenue and their Assistants, are prohibited lending money, directly or indirectly, to any proprietor or farmer of land, or dependent taluqdár, or under-farmer or raiyat, or their sureties, and all such loans as have been made in opposition to the repeated prohibitions of Government, or which may be hereafter made, are declared not recoverable in any Court of Judicature.

3—6. [*Europeans possessing land liable to be dispossessed; European mortgagees not to have possession of land; land held by Europeans to be measured; annual statements of land held by Europeans to be sent to Board of Revenue*] *Rep. by Act VIII of 1868, s. 1.*

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[a] ~~So much of s 1 as relates to Europeans purchasing or holding land has been repealed by Act VIII of 1868, s 1.~~

[b] Certain words in s. 2, repealed by Act XVI of 1874, s. 1, have here been omitted.

REGULATION III OF 1794.[a]

Passed on the 14th March, 1794.

A Regulation ~~for exempting proprietors of land (with certain exceptions) from being confined for arrears of revenue; and~~ for prescribing the process by which Tahsildárs are to demand payment of arrears; and for enabling the Collectors to recover from Native Officers employed under them public money or papers which they may embezzle or retain; ~~and for expediting the trial of causes relating to the public revenue or the rents of individuals.~~

Rep. XII of 1891

Rep. XII of 1891

1—11. [*Revenue when payable; restriction on confinement for arrears; demand of arrears; sale; penalty on defaulters; recovery of taḳḳavi; attachment of lands; resistance to attachment; partial repeal of Reg. XIV of 1793.*] *Rep. by Act XVI of 1874, s. 1.*

12. [*Recovery by proprietors and farmers of land of sums exacted from them beyond their engagements.*] *Rep. by Ben. Act VII of 1880, s 3.*

How tahsildárs or other public officers are to require payment of arrears from proprietors or farmers paying revenue to them.

13. When arrears shall become due from proprietors or farmers of land, whose revenue may be made payable to a tahsildár or other officer appointed by Government to collect it, such officer is to demand the payment of the arrears by the same process as Collectors are required to observe in requiring the discharge of arrears.[b]

If the defaulter shall not liquidate the arrears by the prescribed period, the tahsildár or other officer is to report the amount of the arrear to the Collector, who is to proceed to the recovery of it by the same process as he is directed to observe in recovering arrears due from proprietors or farmers paying revenue immediately to the treasury of the zila.

14, 15. [*Imprisonment under Reg. XIV of 1793; security for personal appearance of Native Officers.*] *Rep. by Act XVI of 1874, s. 1.*

Collectors how to proceed to recover

16.[c] If a Collector shall have a claim, on the part of Government, on any of the Native officers described in the preceding section, for a balance of

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[a] This Regulation has been declared to apply to the whole of Bengal, except the Scheduled Districts, by Act XV of 1874, s. 6, and under s. 3 of the Scheduled Districts Act, 1874, it has been declared in force in West Jalpaiguri, the districts of Hazáribágh, Lohardugga and Maubhoom and Pergunnah Dhalbhoom—see *infra*, pp. 626 and 649.

~~The whole Regulation has been repealed in the territories to which the Assam Land and Revenue Regulation, 1886, extends—see Reg. I of 1886, s. 2, Assam Supplement.~~

[b] Certain words in s. 13, repealed by Act XVI of 1874, s. 1, have here been omitted.

[c] S 16 has been repealed ~~in Bengal~~ so far as it relates to the recovery of money belonging to Government by Ben. Act VII of 1880, s. 3.

public money or accounts in possession of Native officers.

accounts, or money or papers belonging to Government, he is to require the payment of the money or the delivery of the papers, by a writing under his official seal and signature, and the signature of his head[a] Native officer of his daftar for the time being, specifying the amount of the money, or the particular papers required, and the date and place that may be fixed for the delivery of the money or papers.

If the officer shall not discharge the money or deliver up the papers by the limited time, the Collector is empowered to apprehend him, and convey him to the gaol of the Diwání Adálat of the zila, the Judge of which Court shall detain him in confinement until the sum demanded of him shall be discharged, or he shall have delivered up the papers.

The Collector is authorized likewise to attach such part of the real or personal property belonging to the officer as may be sufficient to make good the sum which may be due from him.

If his property shall be in another zila, he is to apply to the Collector of that zila, who shall cause it to be attached.[a]

The Board of Revenue are empowered to order the property to be sold, under the rules by which the lands of proprietors are directed to be disposed of for the discharge of arrears of revenue.

In the event of the death of any such officer, the surety is to be exonerated from all responsibility, and the Collector is to proceed against his heirs, by a regular suit in the Court to which they may be amenable, for any claims which Government may have upon the deceased.

The suit is to be carried on by the vakil of Government and at the public expense, and the rules in Regulation XIV, 1793,[b] regarding suits so carried on by the Collectors, are to be held applicable to it.

Collectors how to proceed where officers abscond or are not forthcoming.

17.[c] If any such Native officer, who may have retained public money or papers in his possession, shall abscond or not be forthcoming, the Collector may proceed against the surety upon his engagement, or apprehend the offender and commit him to prison, if he be within the limits of the zila; or, if he shall have taken refuge in any other zila,[d] and the Collector shall deem it necessary to require his personal attendance that he may proceed against him instead of his surety, the Collector is to apply to the Judge of the zila to request the Judge within whose jurisdiction the officer may be or reside, to cause him to be apprehended.

The Judge to whom the application may be made is to convey the officer in safe custody to the gaol of the zila from which he may have absconded.

[a] Certain words in s. 16, repealed by Act XII of 1876, s. 1, have here been omitted.
[b] Ben. Reg XIV of 1793 has been repealed by Act XVI of 1874.
[c] S. 17 has been repealed in Bengal, so far as it relates to the recovery of money belonging to Government, by Ben Act VII of 1880, s. 3
[d] Certain words in s. 17, repealed by Act XII of 1876, s. 1, have here been omitted.

Collector how to proceed in case of officer absconding without having adjusted accounts, or not attending for that purpose.

18.[a] If a Collector shall have occasion to require any such officer to attend to adjust his accounts, that the sum due from him may be ascertained, and he shall not attend upon being required by writing to that effect, under the official seal and signature of the Collector, to be fixed up in his kachahri, and at the place in the zila at which the officer may have last resided, the Collector is empowered to prepare the most accurate statement, that he may be able, of the money or papers in the possession of such officer, and proceed against the surety, upon his engagement, for the balance or papers, in the same manner as if the accounts had been adjusted, and the list of the papers prepared in the presence of the officer;

or he may cause the officer to be apprehended by his own authority under section 16, if he be within the limits of the zila, or, if he shall have taken up his abode in any other zila,[b] by application to the Judge, in the manner directed in section 17.

If it should afterwards appear, upon inquiry before the Court, that no part, or a portion only, of the sum demanded was due from him, or that the papers required were not in his possession, the Collector shall not be liable to pay any damages for having confined him, and all costs that may be incurred in the suit or inquiry shall be paid by the officer.

Officers or sureties confined for money-demand to be released in certain cases.

19.[a] If any such officer or his surety shall be confined on account of a claim for public money, and previous to the sale of his property, or supposing the Collector not to have been able to get possession of any property belonging to him, at any time subsequent to his confinement, shall deny the justness of the whole or any part of the demand made upon him by the Collector, and find some responsible person who will become security that he will institute a suit in the Court in fifteen days against the Collector to try the demand, and to pay the sum that may be awarded against him, with costs, and interest at the rate of twelve per cent. from the date on which the sum may be demanded of him to the date of the decree, the Court is to discharge the officer or surety, and proceed to the trial of the suit;

and, if any property belonging to the officer or surety shall have been ordered to be sold, the sale shall be countermanded, and the property restored to the owner.

Native officers or their sureties may sue.

20.[a] If any such Native officer, or his surety, shall be committed to custody by the Collector, and shall not obtain his release in the mode specified in section

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[a] Ss. 18—20 have been repealed in Bengal, so far as they relate to the recovery of money belonging to Government, by Ben. Act VII of 1880, s. 3.

[b] Certain words in s. 18, repealed by Act XII of 1876, s. 1, have here been omitted.

Collector whilst in confinement.

19, he shall nevertheless be at liberty, whilst in confinement, to sue the Collector by whom he may have been confined should he deem the demand upon him unjust.

21. [*Appointment of Vakils to defend certain suits.*] *Rep. by Act XVI of 1874, s. 1.*

22. [*Days to be set aside by certain Courts for trial of suits respecting rent or revenue*] *Rep. by Act XII of 1873, s. 1.*

REGULATION V OF 1799.[a]

Passed on the 3rd May, 1799.

A Regulation to limit the interference of the Zila and City Courts of Diwáni Adálat in the execution of wills and administration to the estates of persons dying intestate.

Preamble.

1. Doubts having been entertained to what extent, and in what manner, the Judges of the Zila[b] Courts of Diwáni Adálat in the Provinces of Bengal, Behar, Orissa and Benares, are authorized to interfere in cases wherein the inhabitants of the above Provinces may have left wills at their decease, and appointed executors to carry the same into effect, or may have died intestate leaving an estate real or personal; with a view to remove all doubts on the authority of the Zila Courts in such cases, and to apply thereto, as far as possible, the principle[b] that in suits regarding succession and inheritance the Muhammadan laws with respect to Muhammadans, and the Hindu laws with regard to Hindus, be the general rules for the guidance of the Judges, the Vice-President in Council has passed the following Regulation, to be considered in force from the period of its promulgation in the above Provinces respectively:

Estates of Hindus, Muhammadans and others, not being disqualified land-

2.[c] In all cases of a Hindu, Mussulman or other person subject to the jurisdiction of the Zila[b] Courts, having at his death left a will and appointed an executor or executors to carry the same into effect, and in which the heir to the deceased may not be a disqualified landholder, subject to the superin-

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[a] This Regulation has been declared to apply to the whole of Bengal, except the Scheduled Districts, by Act XV of 1874, s. 6, and under s. 3 of the Scheduled Districts Act, 1874, it has been declared in force in West Jalpáigurí, the districts of Hazáribágh, Lohardugga and Manbhoom and Pergunnah Dhalbhoom—see *infra*, pp. 626 and 650; ~~also in the Districts of Sylhet, Kámrúp, Nowgong, Darrang, Sibságar, Lakhimpur, Goálpára (excluding the Eastern Dwárs) and Cachar (excluding the North Cachar Hills)—see Appendix to Assam Supplement.~~

~~For power of High Court to authorise a subordinate Judge or Moonsif in Bengal and Assam to take cognizance of proceedings under this Regulation, see Act XII of 1887, s. 23 (2) (c).~~

[b] Certain words in ss. 1 and 2, repealed by Act XVI of 1874, s. 1, have here been omitted.

[c] So much of s. 2 as restricts the interference of Civil Courts in cases of inheritance by minors has been repealed by Act XI of 1858, s. 1.

S. 2 has been repealed ~~in Bengal~~, so far as relates to executors of persons not Muhammadans, but subject to jurisdiction of District Courts ~~in Bengal~~, by the Hindu Wills Act, XXI of 1870, s 4.

(*Secs. 3-4.*)

tendence of the Court of Wards[a] under any Regulation relative to the jurisdiction of the Court of Wards, the executors so appointed are to take charge of the estate of the deceased, and proceed in the execution of their trust according to the will of the deceased and the laws and usages of the country, without any application to the Judge of the Diwáni Adálat or any other officer of Government, for his sanction; and the Courts of Justice are prohibited to interfere in such cases, except on a regular complaint against the executors for a breach of trust or otherwise, when they are to take cognizance of such complaint in common with all others of a civil nature.[a] holders, leaving wills.

3.[b] In case of a Hindu, Mussulman or other person subject to the jurisdiction of the Zila[a] Courts dying intestate, but leaving a son or other heir, who by the laws of the country may be entitled to succeed to the whole estate of the deceased, such heir, if of age and competent to take the possession and management of the estate, or if under age or incompetent, and not under the superintendence of the Court of Wards, his guardian, or nearest of kin, who by special appointment or by the law and usage of the country may be authorized to act for him, is not required to apply to the Courts of Justice for permission to take possession of the estate of the deceased as far as the same can be done without violence; and the Courts of Justice are restricted from interference in such cases, except a regular complaint be preferred, when they are to proceed thereupon according to the general Regulations. Estates of persons dying intestate.

4. If there be more heirs than one to the estate of a person dying intestate, and they can agree amongst themselves in the appointment of a common manager, they are at liberty to take possession, and the Courts of Justice are restricted from interference, without a regular complaint, as in the case of a single heir; If there be more heirs than one to estate of intestate.

but if the right of succession to the estate be disputed between several claimants, one or more of whom may have taken possession, the Judge, on a regular suit being preferred by the party out of possession, shall take good and sufficient security from the party or parties in possession for his or their compliance with the judgment that may be passed in the suit; or, in default of such security being given within a reasonable period, may give possession, until the suit may be determined, to the other claimant or claimants who may be able to give such security, declaring at the same time that such possession is not in any degree to affect the right of property at issue between the parties, but to be considered merely as an administration to the estate for the benefit of the heirs who may on investigation be found entitled to succeed thereto.

[a] Certain words in ss. 2 and 3, repealed by Act XVI of 1874, s. 1, have here been omitted.

[b] So much of s. 3 as restricts the interference of Civil Courts in cases of inheritance by minors has been repealed by Act XL of 1858, s. 1.

In what cases Judge may appoint administrator for care and management of estate of intestate.

5.[a] In the event of none of the claimants to the estate of a person dying intestate being able to give the security required by the preceding section, and in all cases wherein there may be no person authorized and willing to take charge of the landed estate of a person deceased, the Judge within whose jurisdiction such estate may be situated (or in which the deceased may have resided, or the principal part of the estate may lie, in the event of its being situated within two or more jurisdictions) is authorized to appoint an administrator for the due care and management of such estate, until, in the former case, the suit depending between the several claimants shall have been determined, or, in the latter case, until the legal heir to the estate, or other person entitled to receive charge thereof as executor, administrator or otherwise, shall attend and claim the same; when, if the Judge be satisfied that the claim is well founded, or if the same be established after any inquiry that may appear necessary, the administrator appointed by the Court shall deliver over the estate to him, with a full and just account of all receipts and disbursements during the period of his administration.

Security to be taken from, and allowances paid to, administrators.

6.[a] In all instances of an administrator being appointed under this Regulation, he is, previous to entering upon the execution of his office, to give good security for the faithful discharge of his trust in a sum proportionate to the extent thereof; and the Judge appointing him is authorized to fix for him (subject to the approbation of the Court of Sadr Diwáni Adálat, to whom a report is to be made in such instances) an adequate personal allowance to be paid out of the proceeds of the estate, and to be a percentage thereupon, after deducting the expenses of management.

Procedure in cases of persons dying intestate, leaving personal property to which there is no claimant.

7. The Judges of the Zila[b] Courts, on receiving information that any person within their respective jurisdictions has died intestate, leaving personal property, and that there is no claimant to such property,[c] are to adopt such measures as may be necessary for the temporary care of the property, and to issue an advertisement in the current languages of the country, requiring the heir of the deceased, or any person entitled to receive charge of his effects, to attend for this purpose.

Such advertisement to be published on the spot where the property was found, at the Diwáni Adálat kachahri of the zila,[b] and, if ascertainable, at the dwelling-place of the deceased, or, if the deceased were an European, in the Calcutta Gazette; after which, should any person attend and satisfy the Judge of his title to the property, or to receive charge thereof as executor, adminis-

[a] Ss. 5 and 6 have been modified by Ben. Reg. V of 1827, ~~s. 9~~—see *infra*, p. 240.
[b] Certain words in s. 7, repealed by Act XVI of 1874, s. 1, have here been omitted.
[c] As to duty of police in respect to unclaimed property, see Act V of 1861, s. 25.

trator or otherwise, the same is to be delivered up to him, on repayment of any necessary expense incurred in the care of it.

Should no claim be preferred within the twelve months next ensuing, an inventory of the property and report of the circumstances of the case is to be transmitted to the Governor General in Council for his orders.

Saving of jurisdiction of Court of Wards.

8. Nothing in this Regulation is to be understood to limit or alter the jurisdiction of the Court of Wards in the appointment of managers or guardians for[a] disqualified landholders,[a] or in any case wherein a special power may be vested in the Court of Wards.[a]

REGULATION VIII OF 1800.[b]

Passed on the 3rd July, 1800.

A Regulation for ~~preparing a general Pargana Register of lands~~; ~~and for certain~~ alterations in the ~~prescribed~~ registers of estates paying revenue, and lands held exempt from the payment of revenue.

1 to 18. [*Formation of pargana registers; divisions in same; period for preparing same; forms of register; materials for preparing same; repeal of certain enactments; explanation of the term "estate"; insertion in registers of alterations in annual revenue; copies of registers to be sent to Board of Revenue; new forms of registers; establishment.*] *Rep. by Ben. Act VII of 1876, s. 2.*

Extension of period for registration of lakhiráj grants, and assessment thereafter of all unregistered lands.

19. By section 26, Regulation XIX, 1793, section 21, Regulation XXXVII, 1793, and the corresponding sections in Regulations XLI[c] and XLII,[c] 1795, all lands held exempt from the payment of revenue, which the holders may have omitted to register by the time prescribed in the publication therein referred to, are become subject to the payment of revenue, unless sufficient cause be shewn, to the satisfaction of the Governor General in Council, for their not having been registered within the limited period.

It appearing, however, that the publications directed in section 25, Regulation XIX, 1793, section 20, Regulation XXXVII, 1793, and the corresponding sections in Regulations XLI and XLII, 1795, have not in every

[a] Certain words in s. 8, repealed by Act XVI of 1874, s. 1, have here been omitted.

[b] This Regulation has been declared to apply to the whole of Bengal, except the Scheduled Districts, by Act XV of 1874, s. 6. It has also been declared in force by Reg III of 1872, s. 3, as amended by Reg. III of 1886, s. 2, in the Sonthal Pergunnahs, and under s. 3 of the Scheduled Districts Act, 1874, in West Jalpáiguri, the districts of Hazáribágh, Lohardugga and Manbhoom and Pergunnah Dhalbhoom—see *infra*, pp. 626 and 650.

The Regulation has been repealed in the territories to which the Assam Land and Revenue Regulation, 1886 extends—see Reg. I of 1886, s. 2, Assam Supplement.

[c] Ben. Regs. XLI and XLII of 1795 have been repealed by Act XIX of 1873.

instance been made as therein directed (namely, the publication respecting lands held under bádsháhi grants in the principal kachahri of the holders of such grants; and respecting other exempted lands in the principal kachahri of every proprietor and farmer of land paying revenue to Government and of every Native Collector in lands held khás by Government; or when the estate, farm or khás land may consist of two or more whole parganas, or portions of parganas, in the principal kachahri of each pargana or portion of a pargana comprised in such estate, farm or khás land), the Collectors are hereby further directed, immediately on the receipt of this Regulation, to ascertain whether the publications above specified have been duly made as prescribed throughout their respective Collectorships; and, if not, they are to cause the same to be made without delay, in the manner prescribed, as well as in their own kachahrís, and in the kachahrís of the Diwáni Courts situated within their respective zilas; allowing the further period of one year from the date of such publications for the registry of the lands therein specified.

After the expiration of such period any unregistered land found to be held exempt from the payment of revenue is to be assessed, under the provisions contained in the above Regulations, whenever the same may be discovered;

and the Collectors are to enter lands so assessed (together with all other lákhiráj lands which may be brought upon the public assessment) in their succeeding[a] register of estates paying revenue, as well as in their register of intermediate mutations.

20, 21. [*Notice of establishment of new villages and by persons succeeding to landed property.*] *Rep. by Ben. Act VII of 1876, s. 2.*

22. [*Kánúngo's records to be delivered to Collector.*] *Rep. by Act XVI of 1874, s. 1.*

REGULATION X OF 1800.[b]

Passed on the 11th December, 1800.

A Regulation for preventing the division of landed estates in the Jangal Mahálś of the Zila of Midnapore and other Districts.

Preamble.

1. By Regulation XI, 1793, the estates of proprietors of land dying intestate are declared liable to be divided among the heirs of the deceased agreeably to the Hindu or Muhammadan laws.

A custom, however, having been found to prevail in the jangal mahálś of

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[a] The word "quinquennial" in s. 19, repealed by Act XVI of 1874, s. 1, has here been omitted.

[b] This Regulation has been declared in force, under s. 3 of the Scheduled Districts Act, 1874, in the districts of Hazáribagh, Lohardugga and Manbhoom, Pergunnah Dhalbhoom and the Kolhan —see *infra*, p. 650.

Midnapore and other districts, by which the succession to landed estates invariably devolves to a single heir without the division of the property, and this custom having been long established, and being founded in certain circumstances of local convenience which still exist, the Governor General in Council has enacted the following rule, to be in force in the Provinces of Bengal, Behar and Orissa from the date of its promulgation.

2. Regulation XI, 1793, shall not be considered to supersede or affect any established usage which may have obtained in the jangal mahâls of Midnapore and other districts, by which the succession to landed estates, the proprietor of which may die intestate, has hitherto been considered to devolve to a single heir, to the exclusion of the other heirs of the deceased. Regulation XI, 1793, not to operate in jungle mahâls of Midnapore and other districts.

In the mahâls in question the local custom of the country shall be continued in full force as heretofore, and the Courts of Justice be guided by it in the decision of all claims which may come before them to the inheritance of landed property situated in those mahâls.

REGULATION I OF 1801.[a]

Passed on the 15th January, 1801.

A Regulation ~~to explain and amend part of the rules for~~ collecting the public revenue contained in Regulations VII, 1799,[b] and V, 1800; to expedite the sale of lands for arrears ~~of revenue; to limit the division of property by such sales~~; to explain and amend the rules ~~contained in Regulation XXV, 1793[c] (extended to Benares by Regulation XXVI, 1795),~~[c] for the division of joint estates, and allotment of the fixed assessment thereupon; ~~and to fix a period for the operation~~ of such part of Regulation VIII, 1793, as authorizes the separation of certain taluqs from the zamindáris to which they ~~were attached at the time of the decennial settlement~~.

Rep. XII of 1891

Rep. XII of 1891

Rep. XII of 1891

1, 2. [*Local extent; attachment of estate or farm for arrears of revenue.*] *Rep. by Act XVI of 1874, s. 1.*

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[a] This Regulation has been declared to apply to the whole of Bengal, except the Scheduled Districts, by Act XV of 1874, s. 6. It has also been declared in force by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2, in the Sonthal Pergunnahs, and under s. 3 of the Scheduled Districts Act, 1874, in West Jalpáiguri—see *infra*, p. 626.

~~The Regulation has been repealed in the territories to which the Assam Land and Revenue Regulation extends—see Reg. I of 1886, s. 2, Assam Supplement.~~

[b] Ben. Reg. VII of 1799 has been repealed by Act XVI of 1874.

[c] Ben. Regs. XXV of 1793 and XXVI of 1795 have been repealed by Ben. Reg. XIX of 1814.

3. [*Immediate sale of attached estates on proprietors refusing to furnish accounts.*] *Rep. by Ben. Reg. XI of 1822, s. 2.*

4. [*Distress and sale of personal property in certain cases.*] *Rep. by Act XVI of 1874, s. 1.*

5, 6, 7. [*Sale of estates in one or more lots.*] *Rep. by Ben. Reg. XI of 1822, s. 2.*

Section 10, Regulation I, 1793, to be observed in all cases of public sale and private transfer or division.

8.[a] Section 10, Regulation I, 1793, prescribes the general rule and principle for the allotment of the fixed assessment upon all divisions of estates, whether publicly sold or transferred by the private act of the proprietors, namely, that the assessment upon the portion of the estate to be separated shall bear the same proportion to its actual produce as the fixed assessment upon the whole estate may bear to its actual produce.

This rule is to be strictly observed in all cases, whether of public sale or private transfer, or of division between sharers, heirs or joint proprietors of whatever description;

"Actual produce" defined.

and it is hereby explained that by the term "actual produce" is to be understood the neat annual rent, or other neat produce receivable by the proprietor, after deducting from the gross rent, or other gross produce, the actual expense of collection and other usual charges of management, inclusive of púlbandi or the expense of embankments, and similar incidental expenses, where such may be paid by the proprietor from his gross receipts; but exclusive of his málikána or proprietary income, and all other personal appropriations of the gross produce of his estate, as such can have no claim to consideration in determining the neat produce for an equal division of landed property, or for the allotment of the public assessment thereto in conformity to the prescribed rule.

But the above Regulation further provides that the produce to which the general rule of proportion is to be applied shall be ascertained in the mode that is or may be prescribed by the Governor General in Council; and the patwári accounts furnished in pursuance of clause fourth of section 62, Regulation VIII, 1793, for the allotment of the public revenue agreeably to the principles laid down in Regulation I, 1793, having in many instances proved fallacious or unsatisfactory, and in some instances not being procurable by the officers of Government,

Procedure of officer charged with allotment.

it is hereby enacted that whenever the Collector or other public officer, to whom the allotment of the assessment upon the portion of an estate may

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[a] So much of s. 8 as relates to the appointment of patwáris has been repealed, as regards the Ceded and Conquered Provinces, the Provinces of Behar and Benares, the District of Cuttack, the Pergunnah of Patáspur and dependent pergunnahs, by Ben. Reg. XII of 1817, s. 2. That Reg. was extended to the rest of Bengal, by Ben. Reg. I of 1819, § 4, cl. (2)

be committed, shall have reason to suspect the accuracy of the village-accounts produced by a patwári, in pursuance of clause fourth of section 62, Regulation VIII, 1793, or of any other Regulation;

ment of assessment of portion of estate, should he doubt accuracy of patwári accounts, or they be not forthcoming.

or if such accounts shall be found to have been fabricated or altered, or not to be the true accounts, under the process prescribed in clause eighth of the above section and Regulation;

or if in any case the true village-accounts of the lands, rents, receipts and disbursements may not be forthcoming, but the Collector or other officer, under the powers vested in him ~~by clause first of section 20, Regulation VII, 1799,[a] or any other Regulation,~~ shall have obtained satisfactory accounts for the three past years of the lands and rents of the entire zamindári, taluq or other estate, with a specification of the mahál or mahál proposed to be separately assessed,

Reg. XII of 1871

he shall adjust the assessment upon such mahál or mahál, under the general rule of proportion, according to the average neat produce (as above explained) ascertainable from the general accounts of the estate so obtained, without further regard to the village-accounts than may appear to him proper, with a view to compare and check the other accounts:

Provided, however, that in all cases the Collector or other officer shall adopt every authorized measure to obtain the most accurate accounts procurable, and shall fully satisfy himself that the accounts from which he may compute the neat produce of an estate to be divided and distinctly assessed are sufficiently accurate to prevent any risk of loss to Government from the proposed allotment of the assessment; without evidence of which no distinct assessment is to be proposed by any Collector or approved by the Board of Revenue.

Collectors not to fix assessment on portion of estate, without Board's sanction.

Provided further that nothing in this Regulation shall be understood to authorize the Collectors to fix the amount of the assessment to be allotted upon the portion of an estate, whether publicly or privately disposed of, without the sanction of the Board of Revenue.[b]

Rules respecting village-patwáris, not superseded. Clauses extended to Native agents

Moreover, nothing in this Regulation is meant to supersede the rules contained in section 62, Regulation VIII, 1793, respecting the village-patwáris; and, with a view to render the same more effectual, clauses third, fourth, fifth, sixth, seventh and eighth of the above section are hereby declared to be equally applicable to all other descriptions of Native agents

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[a] ~~Bom. Reg. VII of 1799 has been repealed by Act XVI of 1874.~~

[b] Certain words in s. 8, repealed by Act XVI of 1874, s. 1, have here been omitted.

a S. 62 of Reg. VIII of 1793 has been repealed.

of landholders.

employed by the landholders in the management of their estates, or in keeping any accounts of their lands, rents, receipts or disbursements.

Punishment of Native agent convicted of altering, or not delivering true, accounts.

If any such agent shall be convicted in the Zila Court of having collusively fabricated or altered the accounts delivered by him, or of having wilfully delivered any other than the true accounts, the offender, besides the punishment for perjury to which he will be liable under clause eighth of the above section, shall be subject to dismission from the service of the party employing him, by order of the Court;

and such party shall be positively prohibited from again employing the offender, under whatever penalty the Court may think proper to fix upon consideration of the circumstances of the case.

9. [*Statement of land for sale to be submitted without delay.*] *Rep. by Act XVI of 1874, s. 1.*

Collectors authorized to cause attendance of landholder or other Native.

10. All purchasers of lands at the public sales are required to attend the Collector of the district wherein the lands may be situated, either in person or by their representatives duly authorized, and to execute the usual kabúliyat and kistbandi for the public revenue assessed upon the lands purchased by them.

In cases of doubt as to the real purchaser,[a] the Collector is authorized to cause the personal attendance of the alleged purchaser at his kachahri, if resident within his jurisdiction; or, if the purchaser be resident in any other zila, the Collector of such zila is authorized and required to cause the attendance of the purchaser at his kachahri on the application of the Collector in whose district the lands may lie, and to make any examination or inquiry that may be desired by the latter Collector or by the Board of Revenue, to whom a full report is to be made in such cases.[a]

It is further hereby declared that the Collectors are generally empowered to cause the personal attendance of any landholder or other Native inhabitant within their respective jurisdictions, when the attendance of such person may be indispensably necessary for the purpose of any authorized public inquiry, or to enable them to perform any part of their public duty, under the Regulations or instructions of the Governor General in Council or Board of Revenue.

Not to enforce personal attendance of principal if that of agent will suffice.

But no Collector shall cause the personal attendance of any landholder or other person who may appoint an agent duly authorized to attend for him if the attendance of the agent so appointed shall be sufficient for the purpose required.

Effect of infringement of rule.

Any infringement of this rule will subject the Collectors to a prosecution for damages in the Civil Courts;

[a] Certain words in s. 10, repealed by Act XVI of 1874, s. 1, have here been omitted.

and, whenever they may have occasion to exercise the power now declared to be vested in them, they are to issue regular summonses, under their official seals and signatures, specifying the name, designation and residence of the party summoned, and the purpose or purposes for which his attendance is required.

Summons to persons whose attendance is required.

11. [*Sale of shares in an undivided estate.*] *Rep. by Ben. Reg. XI of 1822, s. 2.*

12, 13. [*Division of joint estates, and allotment of the assessment.*] *Rep. by Ben. Reg. XIX of 1814, s. 2.*

14. ~~The rules contained in Regulation VIII, 1793, for the separation of~~ certain taluqdárs, the actual proprietors of the lands composing their taluqs, from the zamindáris to which they were attached at the period of the decennial settlement, having been construed to entitle taluqdárs of that description, who did not apply for separation at the time of the decennial settlement, to be separated on their application at any subsequent period; and it being necessary for the security of purchasers at the public sales that some period should be fixed for the operation of the above rules to prevent their being at all times liable to deprivation of a part of their purchases, it is hereby required that all taluqdárs who, as proprietors of the lands composing their taluqs, may consider themselves entitled, under section 5, Regulation VIII, 1793, or any other part of that Regulation, to be separated from the zamindáris to which their taluqs are attached, shall prefer a written application to the Collector of the zila in which their taluqs may be situated for the separation thereof, within one year from the date of this Regulation, under penalty of forfeiting all title to separation under Regulation VIII, 1793, if they shall omit to apply, as directed, within the prescribed period; at the expiration of which the operation of the section above-mentioned shall be considered extinct with regard to all taluqs for which no claim to separation may have been then preferred, and such taluqs shall thereafter be considered as dependent taluqs, not entitled to be separated from the zamindáris to which they may be attached; though, in other respects, the rights of the taluqdárs are not meant to be in any degree ~~affected by this Regulation.~~

Taluqdárs considering themselves entitled to have taluqs separated to apply to Collector within one year from date of Regulation.

Rights of taluqdárs in other respects not affected.

Ref. XII of 1851

~~It is further hereby declared that~~ the rules regarding separable taluqs contained in Regulation VIII, 1793, were never meant to be applied to any new taluqs constituted since the period of the decennial settlement.

Rules regarding separable taluqs not applicable to taluq constituted since decennial settlement.

By section 9, Regulation I, 1793, the zamindárs and all other proprietors of land have been declared at liberty to transfer by sale, gift or otherwise their proprietary rights in the whole or any portion of their respective estates; but by section 10 of the same Regulation it is required that all such transfers

✓ Bracketed Supra p. 1

be notified to the Collector of the zila, that the fixed jama assessed upon the whole estate may be apportioned on the several shares in the manner therein prescribed; that the names of the proprietors of each share and the jama assessed thereon may be entered upon the public registers, and that separate engagements for the payment of the jama assessed upon each share may be executed by the proprietors, who are thenceforward to be considered separate proprietors of distinct estates; but until such notification and separation shall have been made the whole of the estate is declared responsible to Government for the discharge of the fixed jama assessed upon it, in the same manner as if no transfer had taken place.

Reg. XII of 1871

~~This declaration is also repeated in section 28, Regulation XXV, 1793,~~[a] which contains the specific rules established by Government for the division of estates paying revenue, and the allotment of the jama upon the several portions ~~thereof.~~

Transfer of proprietary right in portions of estates in certain cases declared invalid as far as respects rights of Government.

If, therefore, any zamindár shall have disposed of his proprietary rights in any portion of his zamindári subsequently to the promulgation of the Regulation above-mentioned, whether under the denomination of an independent taluq or otherwise, and the taluqdár or other person to whom the portion of an estate may have been so transferred shall have omitted to obtain a separate allotment of the public assessment thereon, in the mode prescribed by the Regulations, such transfer, as far as respects the rights of Government, must be considered altogether invalid;

and if the land so privately transferred, but not separately assessed, should have been since, or shall be hereafter, included in any public sale for arrears of revenue, the illicit and imperfect private transfer must be deemed to have been altogether done away.

In such cases the lands transferred, until publicly registered and separately assessed, form part of an undivided estate; and as such are liable to be sold for any arrear of revenue which may be due from any part of the estate.

Section not to apply to dependent tenures.

Provided, however, that nothing in this section be considered applicable to dependent taluqs, or other tenures dependent on the estate to which they are attached, and from which, by their title-deeds or otherwise, they are not entitled to be separated as a distinct estate.[b]

15. [*Applicability of certain rules to Benares.*] *Rep. by Act XVI of 1874, s. 1.*

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[a] ~~Ben. Reg. XXV of 1793 has been repealed by Ben. Reg. XIX of 1814.~~

[b] The last sentence of s. 14, repealed by Act XII of 1876, s. 1, has been omitted.

REGULATION X OF 1804.[a]

Passed on the 14th December, 1804.

A Regulation for declaring the powers of the Governor General in Council to provide for the immediate punishment of certain offences against the State by the sentence of Courts-martial.

1. Whereas, during wars in which the British Government has been engaged against certain of the Native Powers of India, certain persons owing allegiance to the British Government have borne arms in open hostility to the authority of the same, and have abetted and aided the enemy, and have committed acts of violence and outrage against the lives and properties of the subjects of the said Government; Preamble.

and whereas it may be expedient that, during the existence of any war in which the British Government in India may be engaged with any power whatever, as well as during the existence of open rebellion against the authority of the Government, in any part of the British territories subject to the Government of the Presidency of Fort William, the Governor General in Council should declare and establish martial-law within any part of the territories aforesaid, for the safety of the British possessions and for the security of the lives and property of the inhabitants thereof, by the immediate punishment of persons owing allegiance to the British Government who may be taken in arms, in open hostility to the said Government, or in the actual commission of any overt act of rebellion against the authority of the same, or in the act of openly aiding and abetting the enemies of the British Government within any part of the territories above specified;

the following Regulation has been enacted by the Governor General in Council, to be in force throughout the British territories immediately subject to the Government of the Presidency of Fort William, from the date of its promulgation:

2. The Governor General in Council is hereby ~~declared to be~~ empowered Power in time

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[a] This Regulation has been declared to apply to the whole of Bengal, except the Scheduled Districts, by Act XV of 1874, s. 6. It has also been declared in force by Reg. III of 1872, s. 3, as amended by Reg III of 1886, s. 2, in the Sonthal Pergunnahs, and under s. 3 of the Scheduled Districts Act, 1874, in West Jalpáiguri, Western Dvars, the districts of Hazáribágh, Lohardugga Manbhoom, and Pergunnah Dhalbhoom—*see infra*, pp. 626 and 650, ~~also in the district of Cachar—see Appendix to Assam Supplement.~~

of war to suspend functions of ordinary Criminal Courts, and establish martial-law;

to suspend, or to direct any public authority or officer to order the suspension of, wholly or partially, the functions of the ordinary Criminal Courts of Judicature, within any zila, district, city or other place, within any part of the British territories subject to the Government of the Presidency of Fort William, and to establish martial-law therein, for any period of time while the British Government in India shall be engaged in war with any Native or other Power, as well as during the existence of open rebellion against the authority of the Government, in any part of the territories aforesaid;

and to direct immediate trial by Courts-martial of lieges offending against Regulation.

and also to direct the immediate trial, by Courts-martial, of all persons owing allegiance to the British Government, either in consequence of their having been born, or of their being residents, within its territories and under its protection, who shall be taken in arms in open hostility to the British Government, or in the act of opposing by force of arms the authority of the same, or in the actual commission of any overt act of rebellion against the State, or in the act of openly aiding and abetting the enemies of the British Government within any part of the said territories.

Reg. VII of 1859

Lieges convicted by Court-martial of crime specified in section 2 liable to immediate punishment of death;

3. ~~It is hereby further declared that~~ any person born or residing under the protection of the British Government within the territories aforesaid, and consequently owing allegiance to the said Government, who, in violation of the obligations of such allegiance, shall be guilty of any of the crimes specified in the preceding section and who shall be convicted thereof by the sentence of a Court-martial, during the suspension of the functions of the ordinary Criminal Courts of Judicature and the establishment of the martial-law, shall be liable to the immediate punishment of death, and shall suffer the same accordingly, by being hung by the neck till he is dead.

and to forfeiture of property.

All persons who shall, in such cases, be adjudged by a Court-martial to be guilty of any of the crimes specified in this Regulation shall also forfeit to the British Government all property and effects, real and personal, which they shall have possessed within its territories at the time when the crime of which they may be convicted shall have been committed.

Governor General not precluded from causing persons charged with offences to be tried by ordinary Courts.

4. The Governor General in Council shall not be precluded by this Regulation from causing persons charged with any of the offences described in the present Regulation to be brought to trial, at any time, before the ordinary Courts of Judicature,[a] instead of causing such persons to be tried by Courts-martial, in any cases wherein the latter mode of trial shall not appear to be indispensably necessary.

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[a] Certain words in s. 4, repealed by Act XVI of 1874, s. 1, have here been omitted.

REGULATION XII OF 1805.[a]

Passed on the 5th September, 1805.

A Regulation for the settlement and collection of the public revenue in the Zila of Cuttack, including the Parganas of Patáspur, Kamardáchor and Bográí, at present included in the Zila of Midnapore.

Preamble.

1. Whereas it is necessary that fixed rules should be established for the settlement and collection of the public revenue in the zila of Cuttack:

And whereas the principles of justice and good faith require that the declarations made by the late Board of Commissioners to the several descriptions of zamindárs, taluqdárs, farmers and other holders of land should be formally recognised and confirmed:

And whereas it has been judged to be advisable to extend the Regulations in force for the settlement and collections of the public revenue in the Province of Bengal, with certain modifications and exceptions, to the zila of Cuttack: the following rules have been enacted, and are to be in force from the period of the promulgation of this Regulation:

Recapitulation of settlement-arrangements for 1210 and 1211 Wiláiyati;

2. On taking possession of the country the Commissioners deemed it to be necessary to adopt the surest means of preserving uninjured the rights of the different landholders in the territory called Mogalbandi, being that part of the zila of Cuttack in which, according to established usage, as in Bengal, the land itself is responsible for the payment of the public revenue, and in which every landholder holds his lands subject to the conditions of that usage.

With this view the Commissioners issued a publication signifying that all those persons who were in possession of the lands at the close of the Amli year 1210 (corresponding with the Wiláiyati year 1210) should continue in possession during the year 1211.

The Commissioners also declared all demands for balances of former years to be cancelled, and they ordered the amount of the revenue payable by the respective zamindárs on account of the year 1211 Amli (corresponding with the Wiláiyati year 1211) to be ascertained and established according to the

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[a] Such parts of this Regulation as relate to lákhiráj lands have been modified by Ben. Reg. XIV of 1825, s. 1—see *infra*, p. 234.

The rules prescribed in this Regulation for determining the validity of grants for holding lands exempt from payment of public revenue have been declared applicable to grants for holding lands under mukarrari or other tenures limiting the demand of Government, by Ben. Reg. II of 1819, s. 4—see *infra*, p. 147.

rate of the receipts of former years; granting a deduction of the amount of some oppressive abwábs and other exactions, and allowing for losses sustained by the raiyats from the failure of the first crop of that season, and also for such part of the revenue of the current year as had been previously collected by the Marátha Government.

confirmation of same.

3. The arrangements adopted by the Commissioners with respect to the settlement of the revenue for the years 1210 and 1211 Amli (corresponding with the years 1210 and 1211 Wiláiyati), together with the abatements from the jama and the remissions of revenue granted by the Commissioners in those years, are hereby confirmed.

Proclamation regarding land-revenue in Mogalbandi territory.

4. The following proclamation, relative to the settlement of the land-revenue in the Mogalbandi territory of the zila of Cuttack, was published on the 15th of September, 1804, by the Board of Commissioners, in virtue of the powers vested in them:

"PROCLAMATION.—Cuttack, September 15, 1804.

"*First.*—Whereas it is the intention of the British Government to adopt, at the expiration of the present Amli year, such a plan for the settlement of the landed revenue of the Province of Cuttack as may be most conducive to the prosperity of the country and to the happiness of the inhabitants:

"And whereas it is of the utmost consequence to the success of the measure, as well as to the interest of the zamindárs, taluqdárs and all others concerned, that the nature and terms thereof should be made known as early as possible, notice is hereby given:

"*Second.*—That at the commencement of the Amli year 1212 the sáir of every denomination will be separated from the mál or land-revenue, and a settlement for the latter only concluded in all practicable cases with the zamindárs or other actual proprietors of the soil (unless when disqualified by notoriously bad character or other good and sufficient cause), for a period of one year, it being understood that all zamindárs and other landholders, and all khandáits, shall for the present, and during the pleasure of Government, continue to perform the same duties of police for the prevention of robberies, murders and crimes of that nature, and for the preservation of peace and good order within their respective limits, and to be subject to the same responsibility as heretofore.

"*Third.*—That at the expiration of the year 1212 another settlement will be made with the same persons (if willing to engage and they shall have conducted themselves to the satisfaction of Government) for three years, at a

fixed equal annual jama, which jama shall be formed upon a just and moderate consideration of the receipts in the year 1212 and former years.

"*Fourth.*—That at the expiration of the fourth year a new settlement will be made with the same persons (if willing to engage and they shall have conducted themselves to the satisfaction of Government) for a further period of four years, at a fixed annual jama, formed by adding to the annual rent of the preceding lease of three years two-thirds of the nett increase of revenue during any one year of that period.

"*Fifth.*—That at the end of the lease for four years (which will be in the Amli year 1219) a further settlement for the period of three years will be concluded with the persons in possession (if willing to engage and they shall have conducted themselves to the satisfaction of Government) at a jama to be formed by adding to the annual rent of the preceding lease of four years three-fourths of the nett increase of revenue during any one year of that period.

"*Sixth.*—That at the end of these eleven years, which will be in 1222, a permanent settlement will be concluded with the same persons (if willing to engage and they have conducted themselves to the satisfaction of Government, and if no others who have a better claim shall come forward) for such lands as may be in a sufficiently improved state of cultivation to warrant the measure, on such terms as Government shall deem fair and equitable.

"*Seventh.*—The nánkár lands of those zamindárs who may decline entering into engagements for their estates, as also of those whose offers may be rejected by Government, will be subject to the payment of revenue equally with other lands in the district; but such zamindárs shall for the present continue to receive in money an equivalent for what they have hitherto received as nánkár from the Marátha Government.

"*Eighth.*—That with respect to such zamindáris as may have been mortgaged or transferred in security, and possession thereof actually given to the mortgagees or securities, the settlement will be made with the person in possession of the land, as the temporary representative of the proprietor, leaving the latter to obtain possession either by a private settlement of accounts, or by a judicial process.

"*Ninth.*—That the settlement of such small taluqs or zamindáris as may be only nominally included in large zamindáris, in the sadr jama of which their jama may be comprehended, will be made separately and distinctly with the proprietors of such small estates, and they will be allowed to pay their revenue directly to the Collector or the person appointed by him to receive it; and in

all cases where the revenue of a village has, for upwards of five years past, been paid direct to Government by the hereditary mukaddam, the settlement for such village will be made with the hereditary mukaddam.

"*Tenth.*—That with respect to such lands as are without proprietors, or the proprietors of which decline entering into engagements, a village-settlement shall be made, and a preference given to the hereditary mukaddams of those villages to which the lands belong; but no settlement is to be made with a mukaddam for lands not included in his mukaddami.

Eleventh.—That, in the event of neither proprietors, mukaddams nor other respectable raiyats being forthcoming, such lands as are in that predicament will be held khás.

"*Twelfth.*—That all authorized abwábs are to be consolidated and incorporated with the land-rent, and expressed in the pattás and kabúliyats, and that nothing but what is there expressed shall be collected from the raiyats or under-renters.

"*Thirteenth.*—That all persons who may enter into engagements for the settlement must bind themselves by written obligations to grant pattás of the above description to their raiyats and under-renters.

"*Fourteenth.*—That all persons who may enter into engagements with Government must previously give security for the fulfilment thereof in an amount equal to the largest kist of their annual jama.

"*Fifteenth.*—Several of the tributary Rájás have been accustomed to furnish guards, and be responsible for all robberies committed within the Mogalbandi lands bordering on their respective territories, and for which they have formerly been allowed to levy a tax, called chaupani or mangan khandáiti: those Rájás are to continue to furnish the usual guards and be subject to the same responsibility as heretofore; but, instead of being permitted to levy the above-mentioned tax, the said Rájás will, until further arrangements can be made, receive an equivalent in money from Government.

"*Sixteenth.*—Such being the provisions made for the preservation of the rights of the zamindárs, raiyats, &c., &c., and for the effectual prevention of undue exaction, there cannot be a doubt that confidence in the protection of Government will be established amongst all ranks of people, that cultivation will be extended, and that the general prosperity of this Province will rapidly increase."

Confirmation of rules, &c., in proclamation.

5. The rules, orders and declarations contained in the above proclamation are hereby confirmed, with the following qualifications and explanations.

Explanation

With the view of obviating any misconstruction of the rule to be adopted,

in adding to the jama a portion of the increased produce, in concluding the settlements to be formed at the commencement of the Wiláiyati years 1216 and 1220 (corresponding with the years 1216 and 1220 Amli), it is hereby declared, in explanation of the third and fourth clauses of the proclamation issued on the 15th of September, 1804, that the amount of the nánkár to which zamindárs are or may be entitled, under their original engagements, for the first triennial settlement, shall be deducted from the actual yearly produce of their estates at the time of the expiration of each lease; and that the actual increase of public revenue to be assessed agreeably to the clauses above specified shall be calculated on the amount of the difference between the actual nett produce after such deduction and the annual amount of the former lease.

of rule regarding addition to jama of portion of increased produce in concluding future settlements.

It is at the same time provided that the portion of the increased produce relinquished to the zamindárs under the above-mentioned clauses, on the formation of the successive settlements, shall be considered to preclude all claim on the part of the zamindárs to any further proportion of such increased produce on account of nánkár, in addition to the deduction originally made and continued to them on this account.

Restoration of zamíndárs, &c, whose lands have been held khás, to management of them.

6. The lands of some zamindárs, independent taluqdárs and other actual proprietors of lands having been held khás or let in farm, in consequence of their refusing to pay the assessment required from them under the proclamation inserted in section 3 of this Regulation, the Governor General in Council hereby notifies to the zamindárs, independent taluqdárs and other actual proprietors of land whose lands are held khás that they shall be restored to the management of their lands upon their agreeing to the payment of the assessment which shall be required from them in conformity to the prescribed rules for the settlement of the land-revenue.

Period for completing adjustment and delivery of pattás.

7.[a] In explanation of the provision contained in the thirteenth article of the above proclamation, it is hereby declared that as a sufficient period of time will have elapsed during the first triennial settlement of the land-revenue in the zila of Cuttack (which will expire with the Wiláiyati year 1215) to enable the proprietors and farmers of land to complete the adjustment and delivery of pattás for the whole of their lands in the mode prescribed, the expiration of the Wiláiyati year 1215 is the period fixed for the general delivery of pattás.

Bar to resumption of lands assigned as endowments of

8. Nothing contained in this Regulation shall be construed to authorize the resumption of the rents of any lands assigned under grants from the Rájá of Birár, or from any zamindár, taluqdár or any actual proprietor of land in

[a] S. 7 has been repealed in Bengal (except Calcutta, Orissa and the Scheduled Districts) by Act VIII of 1885, s. 2—see *infra*, p. 512.

temple of Jaggannáth, &c.,

the zila of Cuttack, as endowments of the temple of Jaggannáth, or of Matths in the vicinity of that temple, or for similar purposes:

Provided, however, that any fixed quit-rent which the holders of such lands are bound to pay by the conditions of their grants shall continue to be paid agreeably to former usage.

and of rents of lands assigned for maintenance of certain sardár paiks, &c.

9. Nothing contained in the foregoing proclamation shall be construed to authorize the resumption of the rents of any lands at present appropriated to the maintenance of certain sardár paiks and other paiks for the support of the police:

Provided, however, that any fixed quit-rent which may be at present payable by such sardár and other paiks, conformably to the tenor of their grants, shall continue to be paid agreeably to established usage.

Preparation of registers of landed property.

10. The Collectors of the revenue in the zila of Cuttack shall be guided in preparing the different registers of landed property in that zila, by the Regulations in force for that purpose in the Province of Bengal:

Provided, however, that the first periodical register to be prepared shall commence with the Wiláiyati year 1216, and shall exhibit the estates, and the required particulars respecting them, as they may stand at the commencement of that year.

The periodical register to be formed at the commencement of the Wiláiyati year 1211, and every succeeding five years, shall exhibit the estates as they may stand at that and each subsequent period.

Numbering of registers.

11. The register to be first formed, and to commence with the Wiláiyati year 1216, shall be numbered two; the register to be next formed, commencing with the Wiláiyati year 1211, shall be numbered one; the register to be next formed at the commencement of the Wiláiyati year 1221 shall be numbered three; and every subsequent periodical register in the order in which it may be formed.

12—16. [*Extension of the Stamp Regulations to Cuttack; coins in which settlement is to be made and revenue paid; bonds dischargeable in sicca rupees; engagements for coins other than siccas or gold mohurs not to be enforced.*] *Rep. by Act XVI of 1874, s. 1.*

Modifications of Regulation XIX, 1793.

17. The following rules, containing modifications of the provisions contained in Regulation XIX, 1793, respecting lands exempt from the payment of revenue under grants not being bádsháhi or royal, shall be in force in the zila of Cuttack:

Validity of grants of alienated lands made

18. *First.*—All grants for holding land exempt from the payment of revenue, made previously to the 14th day of October, 1791, corresponding with the 30th Ásin, 1198, Bengal era; the 3rd Kártik, 1199, Fasli; the 30th Ásin,

✓ Printed Supra, p. 35.

1199, Wiláiyati; the 3rd Kártik, 1848, Sambat; and the 15th Safr, 1207, Hijrí, by whatever authority, and whether by a writing or without a writing, shall be deemed valid, provided that the grantee actually and *bonâ fide* obtained possession of the land so granted, and held it exempt from the payment of revenue, previously to the date above-mentioned, and that the land shall not have been subsequently rendered subject to the payment of revenue by the officers or the orders of the Government. before 14th October, 1791.

If it shall be proved to the satisfaction of the Court that the grantee did not obtain possession of the land so granted, or did not hold it exempt from the payment of revenue previously to the date above specified, or that he did obtain possession of it prior to that date but that it has been since subjected to the payment of revenue by the officers or the orders of Government, the grant shall not be deemed valid.

Second.—All grants for holding land exempt from the payment of revenue, which may have been made subsequently to the 14th day of October, 1791, and prior to the 14th day of October, 1803, by whatever authority, and which may have been confirmed or expressly admitted antecedently to the 14th day of October, 1803, by the authority of the existing Government, shall be deemed valid, provided the grantee actually and *bonâ fide* obtained possession of the land so granted, and held the same exempt from the payment of revenue, previously to the 14th day of October, 1803, and the land shall not have been afterwards rendered subject to the payment of revenue by the officers or the orders of the late Government. Validity of grants made after 14th October, 1791, and confirmed or admitted before 14th October, 1803.

If it shall be proved, to the satisfaction of the Court, that the grantee did not obtain possession of the land so granted, or did not hold it exempt from the payment of revenue, previously to the 14th day of October, 1803, or that he did obtain possession of it prior to that date, but that it has been since subjected to the payment of revenue by the officers or the orders of the late Government, the grant shall not be deemed valid.

Third.—In the event of a claim being preferred by any person to hold land exempt from the payment of revenue, under a grant made previously to the 14th day of October, 1791, or under a grant made subsequent to that date, but prior to the 14th day of October, 1803, and confirmed or admitted by the authority of the existing Government, and of its being proved to the satisfaction of the Court in which the suit may be instituted in the first instance, or to which it may be appealed, that the grantee held the land exempt from the payment of revenue previously to the date specified, but that it was afterwards subjected to the payment of revenue by an officer of Government, and the Court shall entertain doubts as to the competency of such officer, under the Reference of doubtful claims to Governor General

powers vested in him, to subject the land to the payment of revenue, the Court shall suspend its judgment, and report the circumstances to the Governor General in Council, to whom a power is reserved of determining whether such officer was or was not competent to subject the land to the payment of revenue; and, upon receiving the determination of the Governor General in Council, the Court is to decide accordingly.

In like manner the Governor General in Council reserves to himself the power of determining, in cases of doubt, whether any officer of the Rájá of Birár who may have made, confirmed or admitted grants of land exempt from the payment of revenue in the name or on the part of the Rájá was competent to exercise such authority.

The Courts of Judicature shall accordingly suspend their judgment in cases of the above nature, and report the circumstances for the decision of the Governor General in Council.

Rules respecting grants for life only.

Fourth.—But no part of the three preceding clauses shall be construed to empower the Courts to adjudge any person, not being the original grantee, entitled to hold land now paying revenue to Government, exempt from the payment of revenue, under any grant made previously to the 14th day of October, 1803, the writing for which may expressly specify it to have been given for the life of the grantee only;

or supposing no such specification to have been made in writing, or the writing not to be forthcoming, or no writing to have been executed, where the grant, from the nature and denomination of it, shall be proved to be a life-tenure only, according to the ancient usage of the country.

Heirs of present possessors.

Fifth.—Nor to entitle the heirs of any person now holding land exempt from the payment of public revenue, under whatever grant, to succeed to and hold such land exempt from the payment of revenue upon the demise of the present possessor, where the writing for such grant may expressly specify it to have been given for the life of the grantee only; or supposing no such specification to have been made in the writing, or the writing not to be forthcoming, or no writing to have been executed, where, from the nature and denomination of the grant, it shall be proved to be a life-tenure only, according to the ancient usages of the country.

Nor to entitle the heirs to any such person to hold the lands exempt from the payment of revenue after his demise, supposing the writing for the grant not to specify whether it was to be considered hereditary or otherwise, unless it shall be proved, to the satisfaction of the Court, that the grant, from the nature and denomination of it, is hereditary, according to the ancient usages of the country.

But upon the demise of the present possessor of any such grant, which may be adjudged not hereditary under this clause, if it shall appear that one or more successions, in virtue of whatever right, shall have taken place before the 14th day of October, 1803, the lands shall not be subjected to the payment of revenue under the decree without the sanction of the Governor General in Council, to whom a copy of the proceedings and decree of the Court is to be transmitted, and to whom is reserved a power of declaring the lands subject to the payment of revenue, or not, as may appear to him proper.

Present possessors not to transfer or mortgage grants.

Sixth.—The present possessors of lands held exempt from the payment of revenue, under all life-grants declared by the preceding clause not to be hereditary, are prohibited from selling or otherwise transferring them, or mortgaging the revenue of them for a longer period than their own lives; and all such transfers and mortgages are declared illegal and void.

Exemption of certain grants for religious or charitable purposes.

Seventh.—Provided, however, that nothing herein contained shall authorize the subjecting to the payment of revenue any quantity of land, not exceeding ten bighás, held exempt from the payment of revenue under a grant made prior to the 14th day of October, 1803, and *bond fide* appropriated as an endowment for temples or for other religious or charitable purposes.

Moreover, if any land so held and appropriated, exceeding ten bighás, shall become liable to assessment under the rules contained in this Regulation, and the Judge of the Court before which the suit for the assessment of such land may be depending, or the Collector of the district, if no judicial suit respecting it be depending, shall be of opinion that the immediate assessment of such land would be productive of distress, he shall report the same, with the circumstances of the case, for the consideration of the Governor General in Council.

Courts not to take cognizance of certain claims to held exempted lands.

Eighth.—The Courts of Justice shall not take cognizance of any claim to hold exempt from the payment of revenue, under the present Regulation, land which may have been subjected to the payment of revenue for the period of twelve years prior to the 14th day of October, 1803; nor of any claim to hold land exempt from the payment of revenue, which may have been subjected to the payment of revenue for the twelve years preceding the date on which the claim may be instituted, unless the claimant can show good and sufficient cause for not having preferred his claim to a competent jurisdiction within that period.

Grants of land exempt from revenue, made since 14th October,

19. All grants for holding land exempt from the payment of revenue, which may have been made since the 14th day of October, 1803, corresponding with the 29th Ásin, 1210, Bengal era; the 14th Kártik, 1211, Fasli; the 29th Ásin, 1211, Wiláiyati; the 14th Kártik, 1860, Sambat; and the 27th

1803, and not confirmed, declared invalid.

Jamádi-us-Sani, 1218, Hijri, by any other authority than that of the British Government, and which may not have been confirmed by the Governor General in Council or by an officer empowered to confirm them, are declared invalid.

Procedure in case of doubt of authority of officer confirming grant.

20. If doubts shall be entertained by any Court as to the competency of the authority of any officer to confirm any such grant, the Court is to suspend its judgment, and report the circumstances of the case to the Governor General in Council, to whom a power is reserved of determining finally whether the officer possessed competent authority to confirm the grant, or otherwise; and the Court, upon receiving the determination of the Governor General in Council, shall decide accordingly.

Assessing lands resumed under sections 18 to 20.

21. The following rule shall be in force in the Province of Cuttack for assessing land declared subject to the payment of revenue to Government under the three foregoing sections of this Regulation:—

Revenue to belong to Government.

22. *First.*—The revenue assessable on all lands which shall be adjudged or become liable to the payment of revenue, under sections 18, 19 and 20 of the present Regulation, is declared to belong to Government.

Assessment regulated by rules for settlement of revenue-paying lands.

Second.—The revenue payable to Government shall be regulated by the rules prescribed by this Regulation for concluding the settlement of lands paying revenue to Government, and by any subsequent rules which may be prescribed relative to the assessment of lands subject to the payment of revenue to Government.

Procedure in case proprietor refuses to agree to assessment.

If the proprietor shall not agree to the assessment so fixed, a report of his objections, and of the circumstances of the case, shall be made by the Collector of the district, through the Board of Revenue, for the information of the Governor General in Council, who will determine on the amount of the assessment; and, if the proprietor shall refuse to engage for the same, the lands shall be let in farm or held khás, under the rules contained in the existing Regulations.

Periods fixed for registering grants and preparing periodical registers.

23. The period of one year, reckoning from the expiration of the current Wiláiyati year 1212, shall be allowed to the proprietors to register their grants.

On the expiration of that period of time the Collectors shall prepare the first periodical register of lands held exempt from the payment of revenue; and the second, third and each successive register at the expiration of every five years.

Regulation

24.[a] All the provisions contained in Regulation XIX, 1793, regarding lands

[a] So much of s. 24 as authorises and requires proprietors and farmers of estates and dependent taluqs to collect the rents of land granted exempt from the payment of revenue subsequent to the dates specified therein, and to dispossess the grantees and re-annex the land to the estate or taluq in which it may be situate, has been repealed by Act X of 1859, s. 28—see *infra*, p. 349.

✓ Printed supra p 35

exempt from the payment of revenue to Government under grants not being bádshahi or royal, which are not superseded by the foregoing rules, are hereby declared to be in force in the zila of Cuttack. XIX, 1793, in force in Cuttack.

25. The following rules containing modifications of the provisions contained in Regulation XXXVII, 1793, respecting lands held exempt from the payment of revenue under bádsháhi or royal grants, shall be in force in the zila of Cuttack; and all the provisions of that Regulation which are not superseded and rendered of no effect by the following rules shall be considered to be in force in the said zila: Also Regulation XXXVII, 1793.

26. *First.*—The term bádsháhi grant shall be construed to extend to all grants made by the supreme power for the time being, and consequently to include grants of the following descriptions:—First, royal grants properly so called; secondly, grants made by the Subáh of Orissa; and thirdly, grants made by the Rájás of Berar. "Bádsháhi grant" defined.

Second.—Altamghá, jágir, aima, madadmásh, or other bádsháhi grants, for holding land exempt from the payment of revenue, made previous to the 14th October, 1803, shall be deemed valid, provided the grantee actually and *bonâ fide* obtained possession of the land so granted previous to that date, and the grant shall not have been subsequently resumed by the officers or the orders of Government. Bádsháhi grants made before 14th October, 1803, declared valid.

If it shall be proved to the satisfaction of the Court that the grantee did not obtain possession of the land so granted previous to the 14th October, 1803, or that he did obtain possession of it prior to that date but that it has been since resumed by the officers or the orders of Government, the grant shall not be deemed valid.

Third.—In the event, however, of a claim being preferred by any person to hold land exempt from the payment of revenue under a bádsháhi grant made previous to the 14th October, 1803, and on its being proved to the satisfaction of the Court in which the suit may be instituted in the first instance, or to which it may be appealed, that the grantee held the land exempt from the payment of revenue previous to that date, but that it was subjected to the payment of revenue posterior thereto by an officer of Government, and the Court shall entertain doubts as to the competency of such officer under the powers vested in him to resume the grant and subject the lands to the payment of revenue, the Court shall suspend its judgment, and report the circumstances to the Governor General in Council, to whom a power is reserved of determining whether such officer was or was not competent to resume the grant; and, upon receiving the determination of the Governor General in Council, the Court is to act accordingly. Procedure in case of doubt as to authority of officer resuming grants.

✓ Printed Regns. p. 50

Rules respecting grants for life only

Fourth.—But no part of the preceding clauses shall be construed to empower the Courts to adjudge any person, not being the original grantee, entitled to hold land paying revenue to Government exempt from the payment of revenue under a jágir or other grant made previous to the 14th October, 1803, where the grant may expressly specify it to have been given for the life of the grantee only; or supposing no such specification to have been made in the grant, or the grant not to be forthcoming, where the grant, from the nature and denomination of it, shall be proved to be a life-tenure only, according to the ancient usages of the country.

Fifth.—Nor to entitle the heirs of any person now holding lands exempt from the payment of public revenue, under a jágir or other bádsháhi life-grant made previous to the 14th October, 1803, to succeed to and hold such land exempt from the payment of revenue upon the demise of the present possessor, where the grant may expressly specify it to have been given for the life of the grantee only: or supposing no such specification to have been made in the grant, or the grant not to be forthcoming, where, from the nature and denomination of the grant, it shall be proved to be a life-tenure only, according to the ancient usages of the country.

Present possessors not to transfer or mortgage grants.

Sixth.—The present possessors of lands now exempt from the payment of revenue, under such jágir or other life-grants made previous to the 14th October, 1803, and declared by the preceding clause not to be hereditary, are prohibited from selling or otherwise transferring them, or mortgaging the revenue of the lands for a longer period than their own lives; and all such transfers and mortgages which have been or may be made are declared illegal and void.

Grants made since 14th October, 1803, and not confirmed, declared invalid.

27. All bádsháhi grants for holding land exempt from the payment of revenue, which may have been made since the 14th October, 1803, by any other authority than that of the British Government, and which may not have been confirmed by Government, or by an officer empowered to confirm them, are declared invalid.

Procedure in case of doubt of authority of officer confirming grant.

28. If doubts shall be entertained by any Court as to the competency of the authority of any officer to confirm any such grant, the Court is to suspend its judgment, and report the circumstances of the case to the Governor General in Council, to whom a power is reserved of determining finally whether the officer possessed competent authority to confirm the grant or otherwise; and the Court, upon receiving the determination of the Governor General in Council, shall decide accordingly.

Periods fixed for registering grants and

29. The period of one year, reckoning from the expiration of the Wiláyati year 1212, shall be allowed to the proprietors to register their grants. On the

expiration of that period of time the Collectors shall prepare the first periodical register of lands held exempt from the payment of revenue under bádsháhi tenures; and the second, third and each successive register at the expiration of every five years.

preparing periodical registers.

Reg. XII of 1891

30. ~~The rules contained in Regulation XXIV, 1793,~~[a] for deciding on the claims of persons to the continuance of pensions and allowances granted for religious purposes, shall be considered to be in force in the zila of Cuttack, in common with other Regulations extended to that zila by section 36 of this ~~Regulation~~:

Operation in Cuttack of rules in Regulation XXIV, 1793, for deciding on claims to pensions, &c.

~~Provided, however, that~~ in cases in which persons may have obtained pensions from the Government of Berar, under grants made previous to the 14th day of October, 1803, such pensions shall be continued to the present incumbents, and will either descend to their heirs and successors, or will revert to Government on the decease of the present incumbents, as shall appear to the Governor General in Council, on a consideration of the tenor of the grant and all the circumstances of the case, to be proper ~~under section 4, Regulation XXIV, 1793~~:[a] Reg. XII of 1891

Reg. XII of 1891 Provided, ~~likewise~~, that in cases in which persons shall have been in the actual receipt of pensions during a period of three or more years antecedent to the 14th day of October, 1803, under whatever authority, such pensions shall be continued to the present incumbents during their respective lives, but shall revert to Government on the decease of the present incumbents, unless any particular reasons shall appear to the Governor General in Council to exist for continuing the said pensions to their heirs and successors:

Provided also that nothing herein contained shall be construed to authorize the resumption of the established donation for the support of the temple of Jagannáth, the charitable donation to the officers of certain Hindu temples, called Anuchattri, and the allowance granted for the support of the Hindu temple at Cuttack, called Sitárám Thákur Bári.

31. The settlement of the land-revenue of the zila of Cuttack having been ordered to be made with the exclusion of all sáir-duties, all duties of that description are hereby abolished in the said zila; with the exception of the tax on the sale and consumption of spirituous liquors and intoxicating drugs, *and the duties levied from pilgrims at Jagannáth*[b]: and the rules contained in Regulation XXVII, 1793,[c] for preventing the collection of any chalantá,

Collection of sáir, &c., abolished.

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[a] ~~Ben. Reg. XXIV of 1793 has been repealed by Act XXIII of 1871.~~

[b] So much of s. 31 as provides for the continuance of the duties levied from pilgrims at Jagannáth has been repealed by Act X of 1840, s. 1.

[c] Ben. Reg. XXVII of 1793 has been repealed by Act XXIX of 1871, but this reference is saved by the proviso to that effect.

rahdári or other duties by the zamindárs, taluqdárs, farmers and other holders of land in the Province of Bengal, are hereby declared to be in force in the zila of Cuttack.

It is also hereby declared that, in conformity to the spirit and principle of clause tenth of section 2 and the rules contained in section 6, Regulation XXVII, 1793,[a] it is the intention of Government to grant adequate compensations to all persons who derived advantages from the late sáir-duties under competent authority from the Government of Berar, or in conformity to long and established usage.

32. [*Extension of Reg. XXXVI of 1793 to Cuttack.*] *Rep. by Act XVI of 1864, s. 2.*

Sanads granted to certain zamindárs confirmed.

33. The Commissioners having granted sanads to certain zamindárs, entitling them to hold their estates at a fixed jama in perpetuity, those sanads are hereby confirmed. The following is a list of the names of the zamindárs to whom this provision is to be considered applicable :—

Zamindár of Qil'a Darpan,
Ditto of ditto Sukindá,
Ditto of ditto Madhupur.

Also sanad granted to Fateh Muhammad, jágirdár of Málud.

34. The Commissioners having likewise granted a sanad to Fateh Muhammad, jágirdár of Málud, entitling him and his heirs for ever, in consideration of certain services performed towards the British Government, to hold his lands exempt from assessment, such sanad is hereby confirmed.

Also settlement concluded with certain hill and jungle zamindárs.

35. *First.*—The late Board of Commissioners having concluded a settlement of the land-revenue with certain zamindárs, whose estates are situated chiefly in the hills and jangals, for the payment of a fixed annual quit-rent in perpetuity, those engagements are hereby confirmed; and no alteration shall, at any time, be made in the amount of the revenue payable under the engagements in question to Government.

Second.—The following is a list of the maháls to which the provision in the preceding clause is applicable :—

Qil'a Aull, [Áli ?],	Qil'a Hamishpore [Harispur ?],
Ditto Kujan,	Ditto Marichpur,
Ditto Puttra [Pátiyá ?]	Ditto Visunpur.

Like settlement to be concluded with zamin-

Third.—The zamindaris of Korda[b] and Kanka[c] being maháls of the description of those specified in the preceding clause, a settlement shall be concluded, as soon as circumstances may admit, for the revenue of those maháls on the

[a] Ben. Reg XXVII of 1793 has been repealed by Act XXIX of 1871.
[b] Khordha ?
[c] Kanká.

principle on which a settlement has been concluded with the zamindars of the maháls specified in the preceding clause. dárs of Korda and Kanka.

36. All Regulations relating directly or indirectly to the settlement and collection of the public revenue, or to the conduct of the officers employed in the performance of that duty, whether European or Native, in the Province of Bengal, which are not superseded by the foregoing rules, are hereby extended to, and declared to be in force in, the zila of Cuttack. Regulations regarding settlement or collection of revenue, &c., in Bengal extended to Cuttack.

Provided, however, that nothing herein contained shall be construed to authorize the division of the lands comprised in any estates in the zila of Cuttack, in which the succession to the entire estate devolves according to established usage to a single heir: in cases of this nature the Courts of Justice are to be guided by the provisions contained in Regulation X, 1800: Exceptions.

Provided also that nothing herein contained shall be construed to imply that any part of the said Regulations are[a] for the present to be considered to be in force in certain jangal or hill zamindáris occupied by a rude and uncivilized race of people, with the proprietors of which estates engagements were formed by the late Board of Commissioners for the payment of a certain fixed quit-rent or tribute to Government.

The following is a list of the names of the maháls to which this exemption from the operation of the general Regulations is to be considered applicable:—

Qil'a Nílgiri,	Qil'a Tálchar,	Qil'a Ranpur,
[*Ditto Bánki*[b]] *Rep. by Act XXV of 1881, s. 4.*	Ditto Áthgar,	Ditto Hindol,
Ditto Jurmu [Jurinu?],	Ditto Koonjhar,	Ditto Tígiriyá,
Ditto Narsinghpur,	Ditto Khantápárá,	Ditto Barambá,
Ditto Angul,[c]	Ditto Nayágar,	Ditto Dhenkánál.

37. The foregoing exemption from the operation of the general Regulations shall likewise for the present be considered to be applicable to the lands known by the appellation of the territory of Mayurbhanj; but it shall be the duty of the Collector of the zila to conclude a settlement with the proprietor of that estate for the payment of a fixed annual quit-rent, on the principles on which a settlement has been concluded with the other hill or jangal zamindárs specified in the preceding section. Similar exceptions applicable to the territory of Mayurbhanj.

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[a] Sic, read "is."
[b] As to Bánki, see the Bánki Laws Act, XXV of 1881, *infra*, p. 445.
[c] As to Angul, see also *infra*, p. 680.

REGULATION XIII of 1805.

Passed on the 5th September, 1805.

A Regulation for the maintenance of the peace and for the support and administration of the Police in the Zila of Cuttack, and for amending certain provisions contained in Regulation IV, 1804.[a]

Preamble.

1. Whereas it is essential to the security of the persons and property of the inhabitants of the districts and lands included in the Province of Cuttack and its dependencies that a regular and efficient system of police should be maintained in the said Province:

And whereas it was the practice in the said Province, when under the Marátha Government, to vest the immediate maintenance of the peace in certain sardár paiks, also called khandáits, aided by inferior paiks under the orders and control of the said sardárs, for whose support lands were assigned under the orders and authority of the said Government:

And whereas the general control of the said sardárs and other paiks was vested at the time of the conquest of the Province of Cuttack by the British arms in the zamindárs, taluqdárs, farmers and other holders of land, within the limits of their respective estates and farms, excepting in cases in which they had been specifically deprived of the charge of the police by the said Government, either for misconduct or for inability to perform the duty intrusted to them, or for other substantial reasons:

And whereas in such cases it was usual to vest the general charge of the police within certain established limits in the said sardár paiks or khandáits above-mentioned:

And whereas experience has demonstrated that the system of police at present established in the Province of Cuttack is well calculated for the prevention of crimes and for the maintenance of the general tranquillity of the country;

the following rules have been enacted, to be immediately in force in the Province of Cuttack, including the parganas of Patáspur, Kamardáchor and Bográi.

Zila of Cuttack.

2. The districts and lands comprised in the Province of Cuttack, with the exception of the parganas of Patáspur, Kamardáchor and Bográi, shall be[b] denominated the zila of Cuttack.

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[a] Ben. Reg. IV of 1804 has been repealed by Act VIII of 1868.

[b] Certain words in s. 2 repealed by Act XVI of 1874, s. 1, have here been omitted.

Certain parganas included in zila of Midnapore, but subject to Regulations enacted for Cuttack.

3. The above-mentioned parganas of Patáspur, Kamardáchor and Bográi, shall be included, as at present, in the zila of Midnapore; subject, however, to all the laws and Regulations which have been or may be enacted for the internal government of the zila of Cuttack:

Provided, nevertheless, that it shall at any time be lawful for the Governor General in Council, by an order in Council, to make any alteration with respect to the boundaries of the said zilas of Midnapore and Cuttack which may appear to be expedient.

Rules for appointment of dároghas.

4. *First.*—The following rules shall be observed in the appointment of dároghas for the maintenance of the police in the zila of Cuttack, and in the above-mentioned parganas of Patáspur, Kamardáchor and Bográi:

Certain zamindárs to continue to act as police-officers in their respective estates.

Second.—In cases in which the zamindárs, taluqdárs and other landholders have not been formally divested of the charge of the police within the limits of their respective estates, for misconduct or any other reason, either by the late Marátha Government or by the Board of Commissioners for the settlement of the affairs of Cuttack, such zamindárs, taluqdárs and other landholders shall continue, under the responsibility stated in section 6, Regulation IV, 1804,* in charge of the police, according to established usage, within their respective estates; that is, the principal zamindárs, taluqdárs and other landholders, being proprietors of large estates, shall be constituted dároghas of police within the limits of their respective possessions; and the inferior zamindárs, taluqdárs and other landholders, being proprietors of petty estates, shall be considered to be subordinate officers of police, subject to the above-mentioned responsibility, under the immediate authority of dároghas, who shall be selected and appointed for the maintenance of the police in estates or mahálsof the latter description.

In what cases khandáits to be nominated to the charge under control of dároghas.

Third.—In cases in which any of the zamindárs, taluqdárs and other landholders have been divested of the charge of the police (as above noticed) within the limits of their respective estates, one, two or more khandáits or sardár paiks, according to the extent of such estates, shall, in conformity to established usage, be vested with the immediate maintenance of the peace, the apprehension of public offenders and other duties of that description within the limits of the said estates; subject, nevertheless, to the control of dároghas, who shall be appointed for the superintendence of the police and the general control of the conduct of the said khandáits and all inferior officers of police, within the limits of the authority of the said dároghas respectively.

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* Ben. Reg. IV of 1804 has been repealed by Act VIII of 1868. The reference is saved by the proviso to that Act.

Salaries of dároghas.

Fourth.—The dároghas who may be appointed under clauses second and third of this section shall receive such salaries as the Governor General in Council may think proper to fix for their support, on a consideration of the labour and responsibility of the offices held by them.

Lands assigned by the late Government for the maintenance of the sardárs and other paiks to be continued to them.

5. Certain lands having been assigned by the authority of the late Government for the maintenance of the said sardár paiks and inferior paiks under the control of such sardárs for the support of the general police of the country, those lands shall be continued to the said sardár and other paiks for the purposes to which they have been hitherto appropriated.

It is to be understood, however, that all officers of that description shall be considered subject to the authority of the dároghas of police, whether zamindárs or others, within their respective limits, and shall be bound to conform to all legal orders which may be issued to them by such dároghas conformably to the powers with which the dároghas may be invested.

It is further to be understood that any sardár or other paik will be liable to be dispossessed of his lands for any disobedience of orders, neglect of duty, undue violence or other misconduct:

Provided, however, that whenever a Magistrate shall be of opinion that any khandáit or sardár paik ought to be dismissed from his office, or whenever the place of such officer shall become vacant from death or any other cause, the Magistrate shall report the circumstances of the case to the Nizámat Adálat, who will pass such orders on the subject as shall appear to them to be proper, under the general powers vested in them by Regulation V, 1804;[a]

Provided, likewise, that whenever any vacancy shall occur among the inferior paiks, either from dismissal, death or otherwise, the places of such paiks shall be supplied by the sardár paik, on declaring himself to the Magistrate responsible for the conduct of the person recommended by him.

Register of the sardár and other paiks.

6. It shall be the duty of the dároghas of police, whether zamindárs or others, under the guidance and instructions of the Magistrates, to form a complete register of the sardár and other paiks within the limits of the authority of the said dároghas respectively.

Dároghas to fix limits of local authority of the khandáits, &c.

7. It shall further be the duty of the dároghas of police to ascertain and fix, under the orders of the Magistrates, the limits of the local authority of the khandáits or sardár paiks, and of the inferior officers of police attached to the said sardárs, so that every part of the Province of Cuttack, whether consisting of lands paying revenue to Government or of lands exempt from the payment

[a] Ben. Reg. V of 1804 has been repealed by Act XVI of 1874. The offences is dealt by the former latter Act

of revenue, may receive the protection of the subordinate officers of police under the directions of the dároghas and the general control of the Magistrates.

Zamindárs, &c., not exempted from affording assistance to prevent breaches of peace, &c.

8. Nothing contained in this Regulation shall be construed to exempt the zamindárs, taluqdárs, farmers and other holders of land, although they be not formally constituted officers of police, from the duty of affording every assistance in the prevention of breaches of the peace and in the apprehension of public offenders, who are immediately to be delivered into the custody of the nearest officers of police.

Liability of zamindárs, &c., suspected of conniving at robbery, &c.

9. Any zamindár, taluqdár or holder of land exempt from revenue who may be suspected of conniving at any robbery or other public offence will be liable to be prosecuted before the Criminal Courts of the country, and punished on conviction under the general laws and Regulations of the country.

Register of lands assigned for sardár and other paiks.

10. It shall be the duty of the Collectors of Cuttack and Midnapore to form a complete register of the lands assigned for the support of the sardár and other paiks, specifying the quit-rent payable to the zamíndárs, taluqdárs and other landholders (if, according to established usage, the lands have been hitherto subject to the payment of such quit-rent) and to transmit a copy of the register required to the Board of Revenue, to be deposited among the records of that Board.

Above rules not applicable to dusádhs or village-watchmen, entertained by landholders.

11. The foregoing rules regarding the sardár and other paiks, and the lands assigned for their support, are not to be considered applicable to certain dusádhs or village-watchmen, entertained by the zamindárs, taluqdárs and other landholders for the purpose of watching crops, guarding granaries and other duties of that nature; which officers shall be left under the exclusive control of the zamindárs, taluqdars and other landholders as heretofore.

12. [*Authority of Board of Commissioners in Cuttack discontinued.*] *Rep. by Act XVI of 1874, s. 1.*

Extension of Regulations for police and administration of criminal justice to Cuttack.

13. All laws and regulations for the maintenance of the police, and for the administration of justice in criminal cases, in the Province of Bengal, which have been or shall be enacted, and which shall not be inconsistent with or repugnant to the provisions contained in this Regulation,[a] shall have full force and effect in the zila of Cuttack, and in the parganas of Patáspur, Kamardáchor and Bográi included in the zila of Midnapore:

~~Provided, however, that no part of this Regulation shall be construed to give~~ Rep. by Act XIV 1874

[a] Certain words in s. 13 repealed by Act XII of 1876, s. 1, have here been omitted.

(*Sec. 1.*)

Rep. by Act X of 1873

for the present to extend to the estates of certain hill or jungle rájás or zamindárs, of which the following is a list:—

Qil'a Nílgiri,	Qil'a Áthgar,	Qil'a Tígiriyá,
[*Ditto Banki*[a]] *Rep. by Act XXV of 1881, s. 4.*	Ditto Keonjhar,	Ditto Baramba,
Ditto Jurinu,	Ditto Khantápáá,	The territory of Mayurbhanj.
Ditto Narsinghpur,	Ditto Nayágar,	
Ditto Angul,[b]	Ditto Ranpur,	
Ditto Tálcher,	Ditto Hindol,	

REGULATION XI OF 1806.[c]

Passed on the 3rd July, 1806.

A Regulation for facilitating the progress of detachments of troops through the Company's territories; for affording any requisite assistance to persons travelling through those territories; ~~and for extending the rules contained in sections 68~~ and 72, Regulation XXII, 1795,[d] in clauses fifth and sixth, section 14, Regulation VIII, 1805,[e] and in section 31 of that Regulation, to the whole of the Company's Provinces subject to the immediate government of the Presidency of Fort William; for the guidance of the civil officers in applying for guards from the regular battalions; and for modifying the rule contained in clause first, section 12, Regulation I, ~~1804~~.

Rep. by X of 1873

Preamble.

1. WHEREAS it is expedient to enact into a Regulation, for general information and observance, the rules which have been established by Government at different times (with such amendments as have been deemed necessary) for facilitating the progress of military detachments through the Company's

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[a] As to Banki, see the Banki Laws Act, XXV of 1881, *infra*, p. 445.

[b] As to Angul, see also *infra*, p. 680.

[c] This Regulation has been declared to apply to the whole of Bengal, except the Scheduled Districts, by Act XV of 1874, s. 6. It has also been declared in force by Reg III of 1872, s. 3, as amended by Reg. III of 1886, s. 2, in the Sonthal Pergunnahs, and under s. 3 of the Scheduled Districts Act, 1874, in West Jalpáiguri, Western Dwárs, Western Hills, the Terai, the districts of Hazáribágh, Lohardugga and Manbhoom, Pergunnah Dhalbhoom and the Kolhan—see *infra*, pp. 627 and 650; ~~also in the district of Sylhet—see Appendix to Assam Supplement.~~

Such part of this Regulation as authorises Collectors, &c., to give their official aid in procuring coolies for facilitating the march of troops and the progress of officials, &c., has been repealed by Ben Reg III of 1820, s. 2.

[d] Ben. Reg. XXII of 1795 has been repealed by Act XIII of 1868.

[e] Ben Reg. VIII of 1805 has been repealed by Act XIX of 1873.

Provinces, for ascertaining and defraying any necessary expense incurred for that purpose, and for providing compensation when any material damage may be sustained in the cultivation of the country from the march or encampment of troops:

And whereas it has also been judged proper to empower the local officers of police to afford such reasonable assistance as may be required by travellers (whether European or Native) proceeding through their respective jurisdictions in procuring the means of prosecuting their journeys:

~~And whereas it is further necessary to extend to the other Provinces under~~ this Presidency (with modifications) the rules established in the Province of Benares by sections 68 and 72, Regulation XXII, 1795,[a] prohibiting, with certain exceptions, the use of the uniform of the Company's Native troops, the sending of sepoys or lascars into villages for the purpose of procuring provisions or of pressing coolies and boatmen, and the employing of badged peons or other public servants wearing badges; as well as the rule established in the Ceded and Conquered Provinces, by clauses fifth and sixth, section 14, Regulation VIII, 1805,[b] for the trial and punishment of military guards in charge of prisoners who may escape; and likewise the rule contained in section 31, Regulation VIII, 1805,[b] for promulgating the Regulation in the country language:

And whereas it is likewise necessary that fixed and defined rules should be established for the guidance of the Magistrates and other civil officers in applying for detachments, guards or escorts for the public service from the regular battalions:

And whereas it has been judged advisable to modify the rule contained in ~~clause first, section 12, Regulation I, 1804~~[c];

The following rules have been enacted, to be in force throughout the whole of the Provinces subject to the immediate government of the Presidency of Fort William (according as such rules may be applicable to the said Provinces respectively) from the date of their promulgation:

Notice to be given to Collectors and Magistrates, by officers commanding detachments.

2. Whenever a detachment of troops, or a single corps, shall be ordered to proceed, by land or by water, through any part of the Company's territories, the commanding officer of such detachment or corps is required to give the earliest practicable notice to the Collectors of the revenue of the zilas through which the troops are to pass of the probable time of their arrival within such districts respectively; together with information of the probable period of

[a] Ben. Reg. XXII of 1795 has been repealed by Act VIII of 1868.
[b] Ben. Reg. VIII of 1805 has been repealed by Act XIX of 1873.
[c] Ben. Reg. I of 1804 has been repealed by Act XXIX of 1871.

their arrival at the particular places where supplies may be required, and a specification of the supplies which will be wanted.

The commanding officer will likewise notify to the Collectors the probable period of the arrival of the troops at the rivers or nálás intersecting their march, where boats or temporary bridges may be necessary for crossing the troops and the baggage attached to them. The commanding officer will at the same time communicate to the Magistrates of the zilas through which the troops are to pass the probable time of the arrival of the troops within their respective jurisdictions.

Procedure of Collector on notice.

3. *First.*—On receiving the notification mentioned in the foregoing section the Collector shall immediately issue the necessary orders to the landholders, farmers, tahsildárs or other persons in charge of the lands through which the troops are to pass, for providing the supplies required, and for making any requisite preparations of boats or temporary bridges, or otherwise for enabling the troops to cross such rivers or nálás as may intersect their march, without any impediment or delay.

The Collector shall at the same time depute a creditable Native officer to accompany the troops through his jurisdiction, for the purpose of aiding in procuring the necessary supplies and of facilitating the march of the troops.

It shall also be the duty of such Native officer to provide the troops with whatever bearers, boatmen, carts and bullocks may be indispensably necessary to enable the troops to prosecute their route.

Police to assist in providing bearers, boatmen, carts and bullocks.

Should he experience any difficulty in the performance of this duty, he is at liberty to apply for assistance to the nearest police-officer, who is directed to afford his aid in providing the number of persons, and of carts and bullocks, required.[a]

Rates for supplies furnished to troops.

Second.—The supplies furnished under the foregoing clause (including earthen pots, firewood and every article of supply) shall be paid for by the persons receiving the same at the current bázár prices of the place at which they may be provided;

Commanding officers to inquire into, and redress, complaints against persons under their command.

and all officers commanding detachments of troops or single corps marching through any part of the Company's territories are enjoined to make immediate inquiry into any complaints which may be preferred to them by the persons furnishing such supplies or in their behalf against any person or persons under their command, and to afford such redress to the complainants as the nature of the case may appear to require.

Certificate to

4. *First.*—Whenever a detachment of troops or single corps shall be

[a] As to fines leviable from zamindárs for not providing supplies for troops, &c., see Ben. Reg. VI of 1825, *infra*, p. 217.

provided with boats, temporary bridges or other accommodations by any landholder, farmer, tahsildár or other person, conformably to the orders of the Collector of the zila, for the purpose of crossing the troops and their baggage over rivers or nálás, the commanding officer of such detachment or corps will grant a certificate to the person furnishing the same, specifying the number of boats and persons employed, the burthen of each boat, and how long employed on the public service.

be granted by commanding officer when troops are provided with boats, &c.

In instances in which temporary bridges may be constructed for the above purpose the certificate to be granted by the commanding officer is to specify generally the dimensions of the bridges and the materials of which they may be composed.

Second.—The certificate mentioned in the foregoing clause shall be immediately transmitted to the Collector of the zila by the person receiving it, accompanied by a detailed account of the expense incurred for the purposes therein specified.

Certificate to be sent to Collector with account.

The Collector shall without delay communicate the particulars of the account to the officer commanding the detachment or corps on whose account the expense may have been incurred, who shall certify generally thereon whether the services charged for in it were performed, or shall state such exceptions as he may have to offer to any of the charges.

Account to be sent by Collector to commanding officer. Endorsement by commanding officer.

Third.—When the account above-mentioned shall be returned to the Collector, he shall certify whether the sums and rates charged in it are in his opinion reasonable and conformable to the usual rates of labour and hire in the zila; and shall transmit the account, with the vouchers and certificates relating to it, with any requisite observations thereupon, through the prescribed channel, to the Governor General in Council.

Account and vouchers to be sent by Collector with his report to Governor General.

After the account shall have undergone the examination and report prescribed for all military contingent charges the Governor General in Council will pass such final order as may appear proper.

In the meantime the Collector is empowered in such cases to pay the amount of the charge, or such proportion of it as he may consider reasonable, to the landholder, farmer or other person entitled thereto; inserting the amount so disbursed by him at the foot of his treasury-account, in explanation of his treasury-balance, in the mode prescribed for similar cases.

Collector may pay charge if reasonable.

5. *First.*—Whenever a proprietor, farmer, tenant or manager of land through which any detachment or corps of the Company's troops may march, or on which they may be encamped, shall consider himself entitled to compensation for any injury sustained from the march or encampment of the troops, he shall immediately furnish the commanding officer of such troops with as accurate a

Procedure for landholders, &c., sustaining injury from march or encampment.

statement as can be prepared of the nature and extent of the injury sustained;

Cert ficate by commanding officer.

when the commanding officer is required to certify generally thereon whether or not the damage represented to have been sustained has been actually committed, together with his opinion respecting the justice and extent of the claim.

Certificate with statement of claim to be presented to Collector within ten days.

Second.—If the proprietor, farmer, tenant or manager, after receiving such certificate, shall consider himself entitled to compensation, he will be at liberty to present the statement of his claim, with the commanding officer's certificate thereon, to the Collector of the zila (either in person or by his vakil) within ten days from the date of the certificate; but no claim of this description shall be received by the Collector after the expiration of that period, unless the person preferring it shall assign good and satisfactory reason for the delay.

The Collector, on receiving a statement of damage and the commanding officer's certificate thereon within the prescribed period, or afterwards if sufficient reason be assigned for the delay, shall forthwith adopt such measures as may appear requisite to ascertain whether or not the claim be well founded; and shall report his proceedings to the Board of Revenue, accompanied by his opinion on the merits of the claim, for the consideration and orders of Government.

It is, however, declared that no claim will be received unless accompanied by the prescribed certificate of the commanding officer of the troops by whom the damage may be stated to have been committed; excepting in instances in which the claimant can show good and sufficient cause for not having obtained such certificate.

In such cases, if the Collector shall be satisfied with the cause assigned by the claimant for not having obtained the prescribed certificate, he shall transmit the petition and statement of the claimant to the officer commanding the troops by whom the damage may be stated to have been committed, and shall wait his reply thereto previously to determining whether or not the claim be entitled to investigation.

Procedure by Magistrates on receiving notice mentioned in section 2.

6. Immediately on receiving the notification mentioned in section 2, the Magistrates shall transmit orders to the several police-dároghas or other local officers of the police through whose jurisdiction the troops are to pass to afford every assistance in their power to facilitate the march of the troops through their respective jurisdictions; and to co-operate, as far as necessary, with the person deputed on the part of the Collector in procuring the requisite supplies, as well as in adjusting any disputes which may arise respecting the prices of the articles furnished, and in preventing any alarm to the inhabitants of the country.

Report to Commander-in-Chief by officers commanding troops on march.

7. Officers commanding detachments of troops or single corps on their march through any part of the Company's territories are already required, by the general orders issued under date the 1st of February, 1788, to report to the Commander-in-Chief in what manner the troops have been supplied in passing through the districts lying in their route.

In like manner the Collectors are directed to report to the Board of Revenue, and the Magistrates to report to the Nizámat Adálat, for the information of the Governor General in Council, any complaints which may be made to them of the misbehaviour of the troops, when such complaints shall appear to be well founded and of sufficient importance to require communication to Government.

Police empowered, in cases of necessity, to assist travellers in prosecuting their route.

8. Whenever any military officer, not commanding nor proceeding with a corps or detachment of troops, or any other person (whether European or Native) not restricted by Government from passing through the country, may be proceeding within any part of the Company's Provinces, either on the public service or on his private affairs, and shall be in need of assistance during his route to enable him to prosecute his journey, he shall be at liberty to apply to the nearest local officer of police to aid him in providing any requisite bearers, boatmen, carts or bullocks, or any necessary supplies of provisions or other articles.

Assistance how afforded.

On receiving an application of the above nature the police-officer to whom it may be made shall furnish the aid required, or cause it to be furnished by the proper person or persons: provided that a sufficient number of persons who have been accustomed to act as bearers or boatmen, or the requisite number of carts and bullocks, not exclusively appropriated to the purposes of agriculture and occasionally let for hire, can be procured within his jurisdiction.

Reg. X of 1831

Persons and carts and bullocks not to be employed in furnishing assistance.

But all police-officers are strictly forbidden, under pain of dismission from office (~~under the rules prescribed by Regulation V, 1804~~), on applications of the above nature, to compel any persons not accustomed to act as bearers or boatmen, to serve on such occasions, or to furnish a traveller, or cause him to be furnished, with bullocks or carts kept for private use and not for hire, or exclusively appropriated to the purposes of agriculture.

Persons employed to be at liberty to return from first police-station.

Persons so employed, and the persons in charge of carts and bullocks so provided, shall be at liberty to return from the first police-station in the next zila through which the corps or detachment is to march, unless a voluntary engagement to the contrary may be entered into by such persons.

Conditions of assistance to travellers.

The police-officers are further enjoined to be careful that a proper compensation for the bearers, boatmen, carts or bullocks employed, and a just price

~~Ben. Reg. V of 1804 has been repealed by Act XVI of 1874.~~

for the provisions or other articles provided, be secured to the persons entitled thereto.

For this purpose the police-officers are authorized to adjust the rate of hire to be paid for the bearers, boatmen, carts and bullocks required and the price of any articles provided, as well as to demand that the whole or a part, according to the circumstances of the case, be paid in advance.

Should any traveller refuse to comply with the adjustment or demand so made by a police-officer, he will not be entitled to any assistance from the officers of Government under this Regulation.

9. [*Prohibition against persons not in the military service wearing military dress.*] *Rep. by Act XVI of 1874, s. 1.*

10. [*Trial of military guards by martial-law in certain cases.*] *Rep. by Act XII of 1876, s. 1.*

11, 12. [*Rules for promulgating Regulations.*] *Rep. by Act XVI of 1874, s. 1.*

13—19. [*Rules for supplying military guards or detachments; permanent guards; temporary guards; monthly report of guards, &c., supplied; application of rules; non-applicability in Presidency stations*] *Rep. by Act XII of 1876, s. 1.*

20. [*Repeal of cl. (1), s. 22 of Reg. I of 1804.*] *Rep. by Ben. Reg. II of 1811, s. 2.*

REGULATION XIX of 1810.*

Passed on the 14th December, 1810.

A Regulation for the due appropriation of the rents and produce of lands granted for the support of mosques, Hindu temples, colleges and other purposes; for the maintenance and repair of bridges, saráis, kattras and other public buildings; and for the custody and disposal of nazúl property or escheats.

Preamble. 1. Whereas considerable endowments have been granted in land by the

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* This Regulation has been declared to apply to the whole of Bengal, except the Scheduled Districts, by Act XV of 1874, s. 6, and under s. 3 of the Scheduled Districts Act, 1874, it has been declared in force in West Jalpáiguri, the districts of Hazáribágh, Lohardugga and Manbhoom and Pergunnah Dhalbhoom—see *infra*, pp. 627 and 651; ~~also in the district of Sylhet—see Appendix to Assam Supplement~~

So much of this Regulation as requires that the Boards of Revenue and Commissioners shall provide for the due repair of public edifices, such as bridges, saráis and kattras, has been repealed by Ben. Reg. XVII of 1816, s. 16.

So much as relates to endowments for the support of mosques, Hindu temples and other religious purposes has been repealed by Act XX of 1863, s. 1.

preceding Governments of this country and by individuals for the support of mosques, Hindu temples, colleges and for other pious and beneficial purposes; and whereas there are grounds to suppose that the produce of such lands is in many instances appropriated, contrary to the intentions of the donors, to the personal use of the individuals in immediate charge and possession of such endowments; and whereas it is an important duty of every Government to provide that all such endowments be applied according to the real intent and will of the grantors; and whereas it is moreover essential to provide for the maintenance and repair of bridges, saráis, kattras and other buildings which have been erected either at the expense of Government or of individuals for the use and convenience of the public, and also to establish proper rules for the custody and disposal of nazúl property or escheats, the following rules have been enacted, to be in force from the period of their promulgation throughout the Provinces immediately dependent on the Presidency of Fort William:

Superintendence of lands granted for support of mosques, &c.

2. The general superintendence of all lands granted for the support of mosques, Hindu temples, colleges and for other pious and beneficial purposes, and of all public buildings, such as bridges, saráis, kattras and other edifices, is hereby vested in the Board of Revenue and Board of Commissioners in the several districts subject to the control of those Boards respectively.

Appropriation of endowments.

3. It shall be the duty of the Board of Revenue and Board of Commissioners to take care that all endowments made for the maintenance of establishments of the above description be duly appropriated to the purpose for which they were destined by the Government or individual by whom such endowments were granted. In like manner it shall be the duty of those Boards to provide, with the sanction of Government, for the due repair and maintenance of all public edifices which have been erected, either at the expense of the former or present Government or of individuals, and which either at present are or can conveniently be rendered conducive to the convenience of the community.

Disposal of ruined buildings.

4. In those cases, however, in which any of the buildings in question have fallen to decay, and cannot, from that or other causes, be conveniently repaired, or are not calculated if repaired to afford any material accommodation to the public, the Boards shall recommend that they be sold on the public account, or otherwise disposed of, as may appear most expedient.

Lands or public edifices not to be appropriated by individuals for private uses.

5. Under the foregoing rules it will of course be incumbent on the Board of Revenue and Board of Commissioners to prevent any lands which have been granted for the support of establishments of the above description from being converted to the private use of individuals, or appropriated in any other mode contrary to the intent and will of the donor; and likewise to prevent all public

edifices from being usurped by individuals and falling into the possession and exclusive use of private persons.

Estimates of necessary repairs to be submitted to Government.

6. Whenever the Board of Revenue and Board of Commissioners may be of opinion that any of the above-mentioned edifices require repair, they shall obtain the necessary estimates of the expense required for the execution of the work, and forward them to Government for its approval.

Superintendence of nazúl property.

7. The general superintendence of all nazúl property or escheats is likewise hereby vested in the Board of Revenue and Board of Commissioners respectively, who will inform themselves fully through the channel hereafter mentioned of all property of that description, and report to Government whether it should in their opinion be sold on the public account, or in what other mode it should be disposed of.

Appointment of local agents.

8. To enable the Board of Revenue and Board of Commissioners the better to carry into effect the duties intrusted to them by this Regulation, local agents shall be appointed in each zila subject to the authority, control and orders of those Boards respectively.

Collector to be *ex officio* agent with others.

9.[a] The Collector of the zila shall be *ex officio* one of those agents, with whom the Governor General in Council will unite such other public officers, whether in the civil, military or medical branch of the service, as may from time to time be judged expedient.

Agents to ascertain and report particulars of endowments, &c.:

10. Under the provisions of the present Regulation it will of course be the duty of the agents to obtain full information from the public records, and by personal inquiries, respecting all endowments, establishments and buildings of the nature of those above described, and of all nazúl property or escheats, and to report to the Board to whose authority those agents are respectively subject any instances in which they may have reason to believe that the lands or buildings are improperly appropriated; being in all cases careful not to infringe any private rights, or to occasion unnecessary trouble or vexation to individuals.

also names, &c., of present trustees or managers:

11. The said agents will further ascertain and report the names, together with other particulars, of the present trustees, managers or superintendents of the several institutions, foundations or establishments above described, whether under the designation of mutáwali or any other, and by whom and under what authority appointed or elected, and whether in conformity to the special provisions of the original endowment and appropriation by the founder, or

[a] S. 9 has been modified by Act XXXVIII of 1837, which enacted that no person should by reason of his not being in the civil, military or medical branch of the service be incapable of being appointed a local agent under this Regulation.

under any general rule or maxim applicable to such institutions and foundations.

and all vacancies or casualties with full information as to pretensions of claimants.

12. The local agents will also report to the superior Boards all vacancies and casualties which may occur, with full information of all circumstances, to enable the Boards to judge of the pretensions of the person or persons claiming the trust; particularly whether the succession have been heretofore by inheritance in the line of descent, or whether the successor have been in former instances elected, and by whom, or whether he have been nominated by the founder or his heir or representative, or by any other individual patron of the foundation, or by any officer or representative of Government, or directly by the Government itself.

To recommend fit persons in cases where nomination vests in Government.

13. In those cases in which the nomination has usually rested with the present or former Government, or with a public officer, or of right appertains to Government, in consequence of no private person being competent and entitled to make sufficient provision for the succession to the trust and management, it will be the further duty of the local agents to propose, for the approval and confirmation of the superior Board, a fit person or persons for the charge of trustee or manager and superintendent, duly attending to the qualifications of the person selected, and to any special provisions of the original endowment and foundation, and to the general rules or the known usages of the country applicable to such cases.

Board to appoint such persons, or make other provision for trust.

14. On the receipt of the report and information required by the preceding clause the Board of Revenue or Board of Commissioners will either appoint the person or persons nominated for their approval, or will make such other provision for the trust, superintendence and management as may be right and fit with reference to the nature and conditions of the endowment, having previously called for any requisite further information from the local agents.

Saving of private rights.

15. Nothing contained in this Regulation shall be construed to preclude any individual who may conceive that he has just grounds of complaint on account of any orders which may be passed by any of the above-mentioned authorities, with respect to the appropriation of any lands or buildings of the nature of those above described, from suing, in the mode and form prescribed by the Regulations, where Government or public officers are parties; or under the general provisions of the Regulations if the suit be brought against a competitor or other private person, for the recovery thereof in the regular course of law, or for compensation in damages for any loss or injury supposed to have been unduly sustained by him.

Object of Regulation.

16. It is to be clearly understood that the object of the present Regula-

tion is solely to provide for the due appropriation of lands granted for public purposes agreeably to the intent of the grantor, and not to resume any part of the produce of them for the benefit of Government.

In like manner it is fully intended that all buildings erected by the former or present Government or by individuals for the convenience of the public should be exclusively appropriated to that purpose, with the exception of such as have fallen to decay and cannot from that or any other cause be conveniently repaired, or which, under existing circumstances, can no longer contribute to the accommodation of the community.

REGULATION XX OF 1810.[a]

Passed on the 29th December, 1810.

A Regulation for subjecting persons attached to the military establishments to martial law in certain cases, and for the better government of the retainers and dependents of the army receiving public pay on fixed establishments, and of persons seeking a livelihood by supplying the troops in garrison, cantonment and station military bázárs, or attached to bázárs of corps.

Preamble.

1. By the respective Articles of War for the government of His Majesty's and the Honourable Company's troops, all retainers to a camp, and all persons whatever serving with the forces in the field, though not enlisted soldiers, are to be subject to orders according to the rules and discipline of war.

From the great number of Native retainers and followers attached to military establishments in India, and the importance of a prompt and orderly discharge of their duties to the welfare of the troops, it is necessary that the principle of this Article of War should be extended to other cases than that of actual service in the field, to which it is at present confined, and that it should be applied, under certain restrictions, to the maintenance of a proper discipline among the retainers of the army at all times.

By Regulation III, 1809,[b] the support of the police and the mainte-

[a] This Regulation has been declared to apply to the whole of Bengal except the Scheduled Districts by Act XV of 1874, s. 6. It has also been declared in force by Reg III of 1882, s. 3, as amended by Reg III of 1886, s. 2, in the Sonthal Pergunnahs, and under s. 3 of the Scheduled Districts Act, 1874, in West Jalpáiguri, Western Dvárs, the districts of Hazáribágh, Lohardugga and Manbhoom, Pergunnah Dhalbhoom and the Kolhan—see *infra*, pp. 627 and 651; also in the district of Sylhet—see Appendix to Assam Supplement.

[b] Ben. Reg. III of 1809 has been repealed by Act XXIX of 1871.

nance of the peace within the limits of cantonments and military bázárs are vested in the officers commanding the troops quartered at such places; but the powers of commanding officers under that Regulation are restrained to such measures as may be calculated for the prevention of crimes and the apprehension of persons committing them, and they are prohibited from interfering in cases of petty breaches of the peace and other offences of inferior magnitude, unless where the parties are taken in the fact; the cognizance of these offences, as well as those of greater magnitude, being expressly reserved to the Magistrate by that Regulation.

As, however, it will further tend to the maintenance of good order to subject the retainers and dependents of the army to punishment for petty offences by a military tribunal, it has been deemed expedient to transfer the cognizance of such cases, under the restrictions and in the mode hereafter mentioned, to Courts-martial to be assembled for that purpose by commanding officers;[a] the Governor General in Council has therefore been pleased to enact the following rules:—

Persons serving with army and receiving public pay subject to trial by Courts-martial for breach of duty, &c.

2. All persons serving with any part of the army and receiving public pay drawn by any officer in charge of a public department appertaining to the army, whether as lascars, magazine-men, khalásís attached to magazines or any other department or establishment, Native doctors, writers, bihishtis, pakhális, syces, grass-cutters, muháwats, sarwáns or other subordinate servants attached to public cattle, bildárs, artificers or in any other capacity, shall (provided they are borne upon the fixed establishment of the department in which they are employed, and not otherwise) be subject to be tried by a Court-martial for all breaches of their respective duties, and for all disorders and neglects to the prejudice of good order and of the local regulations established by the commanding officer or other competent authority in the cantonment, garrison, station or other places where the troops to which they are attached may be serving.

Limitation of punishment by Courts-martial.

3. Provided that it shall not be competent for such Court-martial to sentence any persons of the above description to any other or heavier punishment than may now be lawfully inflicted on enlisted soldiers, under the second article of the twenty-fourth section of His Majesty's Articles of War,[b] unless where the forces are serving in the field; for which case provision is already made by the existing Articles of War, from which nothing in this Regulation is to be understood to derogate.

Menial

4. Menial servants of officers within the precincts of any cantonment,

[a] The portion of s. 1, repealed by Act VIII of 1887, s. 2, has here been omitted.
[b] Certain words in s. 3, repealed by Act XVI of 1874, s. 1, have here been omitted.

servants of officers liable to trial by Courts-martial.

garrison or military station or military bázár, although they shall not be in the receipt of public pay, shall at all times be subject to all such Regulations as shall be made by the commanding officer or other competent authority for the maintenance of good order in such cantonment, garrison, station or bázár, and shall be liable to be tried by a Native Court-martial for any breach thereof.

5. [*Limits of cantonments, &c., how to be defined.*] *Rep. by Act XVI of 1874, s. 1.*

Plans where to be deposited.

6. The plans[a] shall be prepared in quadruplicate, and signed by the commanding officer and the Magistrate of the district; one copy shall be deposited at the head-quarters of the station, another at the kachahri of the Magistrate, and the other two shall be transmitted to the Commander-in-chief, by whom one copy will be forwarded to Government.

Names of residents within cantonment, &c., to be registered in office of Brigade Major or other officer.

7. The names of all persons having houses, shops or other buildings or fixed places within the limits of the garrison, cantonment or station as described in the plans, in which they carry on trade, or otherwise seek a livelihood by supplying or serving the troops, shall be entered in a register to be kept in the office of the Brigade Major or other station-staff-officer, and to be open to inspection at all reasonable hours.

The name of each person shall be entered both in English and in the language and character commonly used in the district in which the station is situated, and the occupation of the person written opposite to it, in like manner, with the place of his residence and the date of the registration.

Rules as to registered persons.

8. No person shall be registered as attached to the station-bázár without his free consent, and any person so registered shall be entitled at any time to demand his discharge from the registry.

Persons registered shall be entitled to the privileges of registry so long only as they continue to carry on trade or other employment relating to the supply or service of the troops, at some house, shop or fixed place within the limits above-mentioned, and shall be subject during such time to all regulations made by the commanding officer or other competent authority, for the maintenance of good order and fair-dealing in the station-bázár, and shall be liable to be tried by a Native Court-martial for any breach thereof.

Persons attached to bázárs of corps to be registered in book kept at head-quarters.

9. The names of all persons attached to bázárs of corps shall, in like manner, be registered in a book, which shall be kept at the head-quarters of the corps, and shall be open to inspection at all reasonable hours; the entries shall be made in the same manner, in all respects, as those in the registers of station-bázárs.

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[a] *i. e.*, the plans of the limits of the cantonments and garrisons, including the military bázárs attached thereto, which were provided for in the repealed s. 5.

Rules as to such persons.

10. No person shall be registered as attached to the bázár of a corps without his free consent, and any person so registered shall be entitled at any time to require his discharge; except when the corps is on actual service, or there is an immediate prospect of its being ordered to march, in which cases it shall be in the discretion of the commanding officer to withhold such discharge so long only as the immediate exigency of the public service requires.

Persons entitled to privileges of registry.

11. No person registered as attached to the bázár of a corps shall be entitled to any of the privileges of such registry except those who ordinarily carry on the trade or employment in respect of which they are registered within the place allotted or commonly used for the bázár of the corps when it is stationary.

Registered persons liable to local regulations.

12. All persons registered as attached to bázárs of corps shall, while they continue so attached, be subject to such regulations as shall be made by the commanding officer or other competent authority for the maintenance of good order and fair dealing in the bázár, and for the prompt and efficient execution of such services as belong to their respective occupations.[a]

13—18. [*Limitation of punishment by Courts-martial; commutation of corporal punishment to fine; persons liable to trial by Courts-martial for petty offences; persons not attached to military station how to be dealt with for petty offences; arrest of criminals by commanding officer.*] *Rep. by Act XXII of 1864, s. 2.*

Execution of process of arrest, civil or criminal, within military stations.

19. [b]In all cases in which it may be necessary to execute any process of arrest, criminal or civil, within the limits of a garrison, cantonment, military station or military bázár (the process of the Supreme Court only excepted), the officers intrusted with the execution of such process of arrest shall in the first instance carry the same to the commanding officer, or, if he shall happen to be absent, to the senior officer actually present in the garrison, cantonment or station;

and the commanding officer, or such senior officer, upon such process being produced to him, shall back the same with his signature, and shall forthwith use his utmost endeavours to cause the person or persons named in such process to be discovered and, if within the limits of the garrison, cantonment, station or bázár, to be arrested and delivered according to the exigency of the process, to the civil officer charged with the execution thereof;

Rule not to extend to service of process short of arrest.

but nothing herein contained is to be construed to prevent the service by the civil officer, in the usual way, of summonses, subpœnas or other process of mere citation without arrest.

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[a] The rest of s. 12, repealed by Act XXII of 1864, s. 2, has been omitted.
[b] So much of s. 19 as relates to civil process has been repealed by Act X of 1877, s. 3.

Description of military stations to which rules are confined.

20. The provisions of this Regulation respecting the trial of petty offences committed within the limits of garrisons, cantonments, military stations or military station bázárs, and the provisions of this Regulation respecting the execution of process of arrest before judgment against registered persons attached to station bázárs, are to be considered as applicable only to those garrisons, cantonments and stations the limits whereof shall be laid down in plans approved and confirmed by the Governor General in Council, in the manner described in section 5 of this Regulation, and they shall be in force in such garrisons, cantonments and military stations respectively, from the time that the plans so approved and confirmed shall have been deposited at the head-quarters and in the kachahri of the Magistrates, in the manner prescribed in section 6.

With regard to those garrisons, cantonments or stations to which it may not be found practicable to assign local limits for the purposes of this Regulation, special provisions will be made hereafter, according to the circumstances of each case.*

21. [*Commanding officers to have charge of police over persons attached to the bázárs of corps.*] *Rep. by Act XXII of 1864, s. 2.*

22—25. [*Rules for the cognizance of suits for debts under 200 rupees by Military Courts.*] *Repl. by. Act XI of 1841, s. 1.*

Commanding officers not to dispossess proprietors of land or houses within military bázárs.

26. Nothing in this Regulation is to be construed to give any authority to commanding officers to dispossess proprietors of land or houses which may be situated within the limits of military bázárs, although such persons shall refuse to be registered as attached to the bázár, or shall have lost, or forfeited, or resigned their privilege of registry.

Rules as to lands the property of Government within those bázárs.

In all cases in which the ground allotted to those bázárs, or any part of it, is the property of Government, and the occupation of individuals has been declared by Government merely permissive, the commanding officer is empowered to make such general regulations as he may think fit (subject to the approbation of the Governor General in Council) respecting the tenure or occupation of houses, shops or other fixed places situated upon such ground as belongs to Government; which regulations shall in all cases be reduced to writing, and shall, after receiving the approbation of the Governor General in Council, be published in station orders, with a translation in the language commonly used in the district; and the same shall not be of force until fourteen days after they shall have been so published within the limits of the station bázár.

* The rest of s. 20, repealed by Act XII of 1876, s. 1, has been omitted.

REGULATION V OF 1812.[a]

Passed on the 1st May, 1812.

A Regulation for amending some of the rules at present in force for the collection of the Land-revenue.

1. [*Preamble and local extent.*] *Rep. by Act XVI of 1874, s. 1.*

2. [b], [c], Proprietors of lands are declared competent to grant leases for any period which they may deem most convenient to themselves and tenants and most conducive to the improvement of their estates. Proprietors competent to grant leases for any term.

3. [b], [c] The proprietors of land shall henceforward be considered competent to grant leases to their dependent taluqdárs, under-farmers and raiyats, and to receive correspondent engagements for the payment of rent from each of those classes, or any other classes of tenants, according to such form as the contracting parties may deem most convenient and most conducive to their respective interests: Proprietors competent grant leases and receive engagements in any convenient form.

Provided, however, that nothing herein contained shall be construed to sanction or legalize the imposition of arbitrary or indefinite cesses, whether under the denomination of abwáb, mahtút or any other denomination. Prohibition of arbitrary cesses.

All stipulations or reservations of that nature shall be adjudged by the Courts of Judicature to be null and void: but the Courts shall notwithstanding maintain and give effect to the definite clauses of the engagements contracted between the parties, or, in other words, enforce payment of such sums as may have been specifically agreed upon between them.

4. [c], [d] Neither any person deputed to attach lands on the part of Government, nor purchasers at the public sales, shall be deemed entitled to annul existing leases within the year in which the attachment or sale may have taken place, on the ground that such leases were evidently collusive, without a decision to that effect in a Court of Judicature. No attacher of lands on part of Government or purchaser at public sales, entitled to annul existing leases within year.

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[a] This Regulation has been declared to apply to the whole of Bengal except the Scheduled Districts by Act XV of 1874, s. 6. It has also been declared in force by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2, in the Sonthal Pergunnahs; and under s. 3 of the Scheduled Districts Act, 1874, in West Jalpáiguri, Western Hills, Terai, Dumson, the districts of Hazaribágh and Manbhoom and Pergunnah Dhalbhoom—see *infra*, pp. 627 and 651.

~~The Regulation has been repealed in the territories to which the Assam Land and Revenue Regulation extends—see Reg. 1 of 1886, 4 B, Assam Supplement~~

Such parts of this Regulation as authorise Judges to take cognizance of summary suits for rent, &c., have been repealed by Ben. Reg. VIII of 1831, s. 2.

[b] The portions of ss. 2 and 3 repealed by Act XVI of 1874, s. 1, have been omitted.

[c] Ss. 2, 3 and 4 have been repealed ~~in Bengal~~ (except Calcutta, Orissa and the Scheduled Districts) by Act VIII of 1885, s. 2,—see *infra*, p. 512.

[d] The portion of s. 4, repealed by Act XVI of 1874, s. 1, has been omitted.

S 2 is explained in Ben. Reg. XVIII of 1812, S. 2, infra

5—23. [*Rules as to rates at which purchasers of land may collect during year in which sale took place; rules to apply to sequestrators, &c., holding under authority of Boards of Revenue or Commissioners; modifications of existing rules for recovery of arrears.*] *Rep. by Act X of 1859, s. 1.*

Sales of entire estates not liable to be annulled on ground of some sharers not having obtained possession.

24. It is hereby declared that sales made of entire estates for the recovery of arrears of public assessment are not liable to be annulled by the Courts of Judicature on the ground that one or more of the sharers may not have obtained possession of his or their interests in the property.

The consideration of and decision on the expediency of selling the entire estate, or of disposing in the first instance of any particular part of it, is hereby declared to reside in the Board of Revenue,[a] subject to the control exercised by the Government, in its executive capacity, in matters connected with the public revenue.

Nor on ground of proceeds having materially exceeded arrears due.

25. No means existing by which any certain or accurate computation can be formed *à priori* of the real value of any estate, or portion of estate, which may be exposed to sale for the recovery of arrears of public assessment, or of the adequacy of the price which may be offered for such estate, or portion of estate; it is hereby declared that sales made at public auction for that purpose are not liable to be annulled by the Courts of Judicature on the ground that the proceeds of the sales have materially exceeded the amount of the arrears due from the proprietor of the lands to Government.

The Board of Revenue[a] will be guided in cases of that nature by their own discretion; subject, of course, to any instructions with which they may at any time be furnished by the Governor General in Council.

Appointment by Judges of managers of joint undivided estates.

26. [b,c] Inconvenience to the public and injury to private rights having been experienced in certain cases from disputes subsisting among the proprietors of joint undivided estates, it is hereby enacted that whenever sufficient cause shall be shown by the Revenue Authorities, or by any of the individuals holding an interest in such estates, for the interposition of the Courts of Judicature, it shall be competent to the Zila and City Judges to appoint a person, duly qualified and under proper security, to manage the estate; that is, to collect the rents and discharge the public revenue, and provide for the cultivation and future improvement of the estate.

Court may be

27.[d] In like manner, should the Authorities aforesaid, or any individual

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[a] Certain words in ss. 24 and 25, repealed by Act XII of 1876, s. 1, have here been omitted.

[b] S. 26 has been repealed by Act VIII of 1885, s. 2, ~~in Bengal~~ (except Calcutta, Orissa and the Scheduled Districts)—see *infra*, p. 512.

[c] The portion of s. 26, repealed by Act XVI of 1874, s. 1, has been omitted.

[d] The portion of s. 27, repealed by Act XVI of 1874, s. 1, has been omitted. [e] The whole section has been repealed ~~in Bengal~~ (except Calcutta, Orissa and the Scheduled Districts) by Act VIII of 1885, s. 2,—see *infra*, p. 512.

holding an interest in the estate, be at any subsequent time dissatisfied with the conduct of the manager, it shall be competent for them or him to represent the circumstances of the case to the Zila or City Judge, and to move the Court for the removal of the said manager. moved for removal of managers.

28. [*Penalty and interest on arrears.*] *Rep. by Ben. Regs. XII of 1824, s. 2, and VII of 1880, s. 2.*

REGULATION XI OF 1812.[a]

Passed on the 18th July, 1812.

A Regulation to empower the Governor General in Council to order the removal of emigrants from foreign countries, and their descendants, from any place in the vicinity of the frontier of the State from which they may have emigrated; and, in certain cases, to place and detain any such persons in safe custody; and likewise to provide for the trial of emigrants and their descendants who may excite disturbances in the countries from which they may have emigrated, and of persons aiding them in the prosecution of such attempts.

1. Whereas considerable bodies of persons, being Natives of Arakan and ordinarily denominated Muggs, have from time to time emigrated from that country and established themselves in that part of the district of Chittagong which lies contiguous to the Arakan frontier; Preamble.

and whereas numbers of those persons, or of their descendants, abusing the protection which had been afforded to them in the British territories, have excited disturbances and even levied war in the country of Arakan against the Government of Ava, of which State Arakan is now a dependency, and have conducted themselves in a manner manifestly tending to disturb the relations of amity which subsist between the British Government and the Government of Ava;

and whereas it is, in consequence, necessary that the Governor General in

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[a] This Regulation has been declared to apply to the whole of Bengal except the Scheduled Districts by Act XV of 1874, s 6. It has also been declared in force by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2, in the Sonthal Pergunnahs, and under s. 3 of the Scheduled Districts Act, 1874, in West Jalpáiguri and Dumson—see *infra*, p. 627, ~~also in the District of Sylhet—see Appendix to Assam Supplement.~~

Council should possess legal powers to remove the said bodies of emigrants and their descendants from the frontier of the territory of Arakan, or any other bodies of aliens, or their descendants, from the vicinity of the country from which they may have emigrated, and likewise to detain in confinement any of those persons, or any other individuals being Natives of foreign countries, or their descendants, for offences of the above nature actually committed by them in the territories of the State from which they may have emigrated;

and whereas it is necessary to make provision for the trial of persons committing, or aiding in the commission of, the said offences, the following rules have been passed, to be in force from the period of their promulgation throughout the territories immediately dependent on the Presidency of Fort William:

Power to order removal of emigrants to parts of country deemed convenient.

2. Whenever the Governor General in Council, upon due investigation, shall be satisfied that the emigrants from Arakan, or emigrants from any other State, who may have sought an asylum in the British territories, or the descendants of any of the said emigrants, shall have abused the protection afforded to them, by attempts to excite disturbances in the State from which they or their ancestors may have emigrated, it shall be competent to the Governor General in Council to order the removal of those persons to such other part or parts of the country as may be judged most convenient for their future residence.

In like manner it shall be competent to the Governor General in Council to order such removal whenever he may have grounds to be satisfied that the residence of any body of aliens, or their descendants, in the vicinity of the frontier of the country from which they or their ancestors may have emigrated, is likely to cause any serious misunderstanding between that State and the British Government.

Emigrants allowed to dispose of property.

3. Whenever any body of emigrants, or any individuals belonging to such body, shall be ordered to be removed from the part of the country in which they may have been established, they shall be allowed to dispose of any property which they may have acquired in such manner as they may judge proper:

Provided, however, that if they shall nevertheless retain the right to any real property at the period of their actual removal, it shall be competent to the Governor General in Council to order such property to be sold by public auction under the superintendence of the Collector of the district.

In that case the nett proceeds of the sale shall be duly paid to the person or persons to whom the said property belonged.

Power to

4. In cases in which the Governor General in Council may, on due inquiry

and mature deliberation, be satisfied that either the preservation of the tranquillity of the British territories, or of the dominions of the allies of the British Government, or the maintenance of the relations of amity subsisting between the British Government and other States, requires that any of the leaders or other persons of the above description, who may have committed the offences mentioned in section 2 of this Regulation, should be placed and detained under restraint, it shall be competent to the Governor General in Council to order any such persons having committed any of the said offences, but not otherwise, to be apprehended and committed to confinement at such place, and under the custody of such public officer, and detained in confinement for such time, as may be deemed by the Governor General in Council necessary for the public good.

order leaders or other emigrants to b apprehended and kept under restraint.

5. *First.*—Any persons of the above description, or their descendants, who, while living under the protection of the British Government, shall enter the country from which they or their ancestors may have emigrated, or any other foreign country, and shall excite, or attempt to excite, disturbances in the said countries, shall be liable to be brought to trial for that offence,[a] and, if convicted, shall be sentenced to suffer imprisonment for the period of seven years.

Punishment for emigrants or their descendants exciting disturbances in countries from which they emigrated.

Second.—Any persons, whether Native British subjects or aliens, who shall furnish emigrants from foreign countries with any assistance, either of men, money or arms, in prosecution of their attempts to excite disturbances in the country from which they may have emigrated, or in any other country, or shall otherwise aid such aliens in the prosecution of their criminal design, shall be liable to be brought to trial for that offence,[a] and, if convicted, shall be sentenced to suffer imprisonment for the term of seven years:

Punishment for persons aiding or assisting in attempts to excite such disturbances.

Provided, however, that, if the Judge[a] by whom the case may be tried shall be of opinion that the punishment established by this and the preceding clause should in any instance be mitigated, he shall submit the proceedings held on the trial to the Nizámat Adálat, who will recommend to the Governor General in Council such alleviation of the prescribed punishment as they may judge proper:

Proviso.

Provided, moreover, that no sentence or order which may be passed on the trial of any persons under the provisions of the present Regulation shall be competent, or shall be construed, to preclude the Governor General in Council from the exercise of the power vested in the Government by section 4 of the said Regulation.

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[a] Certain words in s. 5, repealed by Act XVI of 1874, s. 1, have here been omitted.

REGULATION XVIII OF 1812.[a]

Passed on the 19th September, 1812.

A Regulation for explaining section 2, Regulation V, 1812, and rescinding sections 3 and 4, Regulation XLIV, 1793,[b] and sections 3 and 4, Regulation L, 1795,[b] and enacting other rules in lieu thereof.

Preamble.

1. Whereas it has been deemed expedient to remove doubts which have arisen on the construction of section 2, Regulation V, 1812, and to rescind sections 3 and 4 of Regulation XLIV, 1793,[b] and sections 3 and 5 of Regulation L, 1795,[b] the following rules have been enacted, to be in force from the promulgation of them in the Provinces of Bengal, Behar, Orissa (exclusive of the district of Cuttack and the pergunnahs formerly dependent on that district, but now annexed to the zila of Midnapore) and Benares.

Explanation of section 2, Regulation V, 1812, as to granting leases in perpetuity or otherwise.

2. Doubts having arisen on the construction of section 2, Regulation V, 1812, it is hereby explained that the true intent of the said section was to declare proprietors of land competent to grant leases for any period, even to perpetuity, and at any rent which they might deem conducive to their interests:

Provided, however, that nothing contained in the former or present Regulation shall be construed to empower persons holding a restricted interest in estates, whether for life or for other limited period, or subject to control or restriction in the use or disposal of the property, to grant leases extending beyond the term of their own interest in the property, or exceeding their power or authority over it.

3. *First.*—[*Repeal of ss. 3 and 4 of Regs. XLIV of 1793 and L of 1795.*] *Rep. by Act XVI of 1874, s. 1.*

Rule for apportioning assessment on shares of estates when divided.

Second.—When a division of a joint estate shall be made on the application of the proprietors, or pursuant to the decree of a Court of Justice, the fixed public revenue assessed upon the whole estate shall be apportioned on the several shares agreeably to the principles prescribed in section 10, Regulation I, 1793, ~~and section 7, Regulation XXVII, 1795,~~ without regard to any engagements that may subsist between the proprietors and their dependent taluq-

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[a] This Regulation has been declared in force in the Sonthal Pergunnahs by Reg. III of 1872, s. 3, as amended by Reg III of 1886, s. 2.

It has been repealed in Bengal (except Calcutta, Orissa and the Scheduled Districts) by Act VIII of 1885, s 2—see *infra*, p. 512

[b] Ben Regs XLIV of 1793 and L of 1795 have been repealed by Act XXIX of 1871.

dárs (excepting the dependent taluqdárs described in section 7, Regulation XLIV, 1793[a]), under-farmers or raiyats.

But all leases made in conformity to sections 2 and 3, Regulation V, 1812, and section 2 of this Regulation, shall remain in full force, notwithstanding the division of a joint estate among the sharers, or the sale of the whole or a portion of any estate in satisfaction of a decree of Court, or the devolving of the same by inheritance, or the private transfer thereof by sale, gift or otherwise.

REGULATION XXIX OF 1814.[b]

Passed on the 3rd December, 1814.

A Regulation for the settlement of certain maháls in the district of Beerbhoom, usually denominated the Ghátwálí Maháls.

1. Whereas the lands held by the class of persons denominated Ghátwáls in the district of Beerbhoom, form a peculiar tenure to which the provisions of the existing Regulations are not expressly applicable;

and whereas every ground exists to believe that, according to the former usages and constitution of the country, this class of persons are entitled to hold their lands, generation after generation, in perpetuity, subject nevertheless to the payment of a fixed and established rent to the zamindár of Beerbhoom, and to the performance of certain duties for the maintenance of the public peace and support of the police;

and whereas the rents payable by those tenants have been recently adjusted, after a full and minute inquiry made by the proper officers in the Revenue Department;

and whereas it is essential to give stability to the arrangements now established among the Ghátwáls, the following rules have been adopted, to be in force from the period of their promulgation in the district of Beerbhoom:

Ghátwáls in Beerbhoom, and their descendants in perpetuity, to be maintained in possession of lands, and not liable to enhancement of rent.

2. A settlement having lately been made on the part of the Government with the Ghátwáls in the district of Beerbhoom, it is hereby declared that they and their descendants in perpetuity shall be maintained in possession of the lands so long as they shall respectively pay the revenue at present assessed upon them, and that they shall not be liable to any enhancement of rent so long as they shall punctually discharge the same and fulfil the other obligations of their tenure.

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[a] Ben. Reg. XLIV of 1793 has been repealed by Act XXIX of 1871. This reference is barred by the Proviso of that Act

[b] This Regulation has been declared in force in the Sonthal Pergunnahs by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2.

As to power of holders of ghátwáli lands to grant leases extending beyond the period of their own possession, see Act V of 1859, *infra*, p. 337.

Ghátwáli lands to form part of zamindári of Beerbhoom

3. The ghátwáli lands shall be considered, as at present, to form a part of the zamindári of Beerbhoom; but the rents of Ghátwáls shall be paid direct to the Assistant Collector stationed at Soory, or to such other public officer as the Board of Revenue, with the sanction of the Governor General in Council, may direct to receive the rents.

Rents how paid

Amount payable to zamindár of Beerbhoom.

4. The difference between the amount of the revenue assessed on the Ghátwáls and the fixed assessment of revenue in this portion of the zamindári of Beerbhum payable to Government shall be paid to the zamindár of Beerbhoom and his heirs and successors, in perpetuity.

Disposal of tenure of Ghátwáls failing to discharge rents

5. Should any of the Ghátwáls at any time fail to discharge their stipulated rents, it shall be competent for the Governor General in Council:

to cause the ghátwáli tenure of such defaulter to be sold by public sale in satisfaction of the arrears due from him, in like manner, and under the same rules, as lands held immediately of Government, or to make over the tenure of such defaulter to any person whom the Governor General in Council may approve on the condition of making good the arrear due; or

to transfer it by grants assessed with the same revenue, or with an increased or reduced assessment, as to the Government may appear meet; or

to dispose of it in such other form and manner as shall be judged by the Governor General in Council proper.

Should any increase of revenue be obtained from the operation of any arrangements of the nature above described, such increase shall be paid in conformity to the tenor of the preceding article to the zamindár of Beerbhoom, his heirs and successors.

REGULATION V OF 1816.[a]

Passed on the 16th February, 1816.

A Regulation for establishing the office of Kánúngo in the district of Cuttack, the pargana of Patáspur, and the several parganas dependent on it.

Preamble.

1. Whereas the establishment of the office of kánúngo in the district of Cuttack, the pargana of Patáspur and its dependencies, may be expected to be of great public benefit in removing the obstacles which have hitherto impeded the revision of the settlement of the district and parganas above-mentioned, and in

[a] The rules contained in this Regulation have been extended generally to the Province of Bengal by Ben Reg 1 of 1819, s. 4 (1)—sec *infra*, p. 143.

otherwise facilitating the collection of the public revenue and the administration of justice; the following rules have been enacted :[a]—

Appointment of kánúngos.

2. One or two persons shall be appointed to fill the office of kánúngo in every pargana of the district of Cuttack, in the pargana of Patáspur and in the several parganas dependent on it, unless the small extent of a pargana shall render it advisable to place more than one pargana under the same kánúngo.

Nomination and removal.

3. These officers shall be nominated by the Collectors of Cuttack and Hijli, within their respective local jurisdictions, for the approval of the Board of Revenue, and shall not be removable from office, except for sufficient cause proved to the satisfaction of that authority.

Office of kánúngo not hereditary.

4. The office of kánúngo is declared not to be hereditary; but, in all parganas in which persons may be found who formerly discharged the duties of kánúngo, the officers to be appointed under this Regulation shall, as far as practicable, be selected from them; and in supplying future vacancies the Collectors shall make it a rule, in all practicable cases, to select from the families of the kánúngos such persons as from character, education and acquirements shall be best qualified to perform the duty.

Salaries of kánúngos.

5. The kánúngos appointed under this Regulation shall receive such salaries as the Governor General in Council may think proper to fix for their support.

The salaries so granted shall be considered to preclude all claims to further pecuniary allowances, under the denomination of nánkár, or any other denomination.

Revenue of lands held by kánúngos liable to resumption.

It is also hereby declared that the revenue of all lands, the grant of which may be found to have been obtained by any person in virtue of his discharging the duties of kánúngos, will be liable to resumption by Government; and that this rule shall be considered applicable both to the persons who may be appointed to the office of kánúngo under the present Regulation, and to those who may not be employed in the public service.

Nothing, however, contained in this provision shall be construed to preclude the Governor General in Council from continuing to either of those classes of persons the whole or a part of the lands held by them respectively free of assessment, in those cases in which the circumstances of the parties may appear to require that indulgence.

Exception.

6. The above rule is not to preclude claims to rent-free lands, or pensions held by the kánúngos under grants made to the individuals for reasons unconnected with the office of kánúngo.

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[a] The rest of ss. 1 and 3, repealed by Act XVI of 1874, s. 1, has been omitted.

Duties kánúngos.

7. The kánúngos are to execute the duties herein specified :—

First.—To keep a counterpart jama-wásil-báki, or account of the collections made by the tahsildárs or by sazáwals, from lands held khás or under attachment.

Second.—To keep an account of all lands held under rent-free tenures, whether the grants be hereditary or otherwise, and to report to the Collector all escheats of such lands to Government.

Third.—To keep a list of the patwáris in each village, and a register of pattás granted by the landholders to their undertenants.

Fourth.—To keep a register of all transfers of estates by sale (public or private), mortgage, lease or otherwise, and to attest such transfers at the request of the parties, without fee or gratuity, with their official signatures.

Fifth.—To compile information regarding local boundaries of parganas and estates; the number and names of villages, articles of produce, rates of rent, rules and customs established in each pargana; and to furnish, at the requisition of the Courts of Justice and of the Collectors, all local information within their cognizance.

Sixth.—To assist at all admeasurements of land, whether undertaken by the officers of Government in conformity to the Regulations, or by the landholders or raiyats, and to record the same.

Seventh.—To prepare and keep the information and accounts directed in this or any future Regulation, in such manner and form as may be from time to time prescribed by the Board of Revenue.

Eighth.—To report to the Collector the death of a málguzár and the name of his heirs, and to keep a register of all successions to lands.

Kánúngos not to hold farms or become sureties.

8. Persons who may be selected to fill the office of kánúngo are hereby prohibited from holding farms, or from becoming sureties for farmers or zamindárs, within the local limits of their official duties.

Transfer of records to successors.

9. On the death, resignation or removal of a kánúngo the records of the office are to be made over to his successor, and the Magistrate of the zila is enjoined, on the application of the Collector, to interpose his authority, in all cases in which it may be necessary, to enforce the surrender of such records.

Punishment of refusal to give them up.

10. The refusal or manifest evasion of any person in possession of the records mentioned in the preceding section to deliver them up on the requisition of the Magistrate is hereby declared to subject the party so offending, on proof thereof, to the penalties prescribed by the Regulations for resistance to the process of the Magistrate.

11. Nothing contained in this Regulation shall be construed to preclude the Governor General in Council from exercising the right of decreasing the number of kánúngos; of abolishing the office in any pargana where from local circumstances the duty may be performed by less than two persons or by the kánúngos in a neighbouring pargana; nor from exercising the right to increase the number of kánúngos in any pargana where, from circumstances, more than two may be found necessary. Right of Government to vary number of kánúngos.

12. The Collectors of Cuttack and Hijlí are enjoined to report to Government, through the usual channel, all instances wherein they may deem it expedient to increase or diminish the number of kánúngos in a pargana, with their reasons at large for such opinion. Collectors to report when variations are necessary.

REGULATION IX OF 1816.

Passed on the 26th April, 1816.

A Regulation for the appointment of a Commissioner of Revenue within that portion of the Districts of the Twenty-four Parganas, Nuddea, Jessore and Backergunge, commonly denominated the Sundarbans.

1. Whereas it has appeared advisable to appoint an officer for the performance of certain duties connected with the public resources in the tract of country ordinarily called the Sundarbans; the following rules have been enacted:[a]— Preamble.

2. An officer shall be appointed under the appellation of Commissioner in the Sundarbans.

The Commissioner in the Sundarbans shall be vested, within such local limits as may be from time to time established by the Governor General in Council, with all the duties, powers and authority which have been or may be exercised by the Collectors of land-revenue (including the charge of the ábkári mahál) under the rules and Regulations which may have been or may be enacted; and shall be subject to the control and superintendence of the Board of Revenue, in the same manner as the Collectors of the several zilas situated within the limits of their authority. Appointment of Commissioner of Sundarbans.

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[a] The rest of s. 1, repealed by Act XVI of 1874, s. 1, has been omitted.

Repl. by Act XI of 1873

REGULATION XI OF 1816.

Passed on the 10th May, 1816.

A Regulation for receiving, trying and deciding claims to the right of inheritance or succession, in certain tributary estates in Zila Cuttack.

Preamble.

1. Whereas it is necessary that provision should be made for receiving, trying and deciding claims to the right of inheritance or succession in certain tributary estates in zila Cuttack, which were excepted by section 11, Regulation XIV, 1805,[a] from the operation of the general rules for the administration of civil justice, established in the Provinces of Bengal, Behar and Orissa;

and whereas the nature of the tenures by which those estates are held, the character of the inhabitants and other local circumstances render it expedient that the estates in question should not be subject to partition, but should descend entire and undivided to the persons respectively having the most substantial claim according to local and family usage; the following rules have been enacted, to be in force from the date of the promulgation of this Regulation in zila Cuttack:

Trial of claims to succession to certain tributary estates in Cuttack.

2. All claims to the right of inheritance or succession to any of the undermentioned tributary estates are to be heard, tried and determined, in the first instance, by the Superintendent of the Tributary Mahâls in zila Cuttack:—

Qil'a Nilgiri,
[*Ditto Bankí*[b]] *Rep. by Act XXI of 1881, s. 4.*
Ditto Jurmu [Jurinu?] *alias* Duspullah.
Ditto Narsinghpur,
Ditto Angúl,[c]
Ditto Tálcher,
Ditto Athgar,
Ditto Keonjhar,
Qil'a Khantápárá,
Ditto Nayágar,
Ditto Ranpur,
Ditto Hindol,
Ditto Tigiriyá,
Ditto Barambá,
Ditto Dhenkánál,
The territory of Mayurbhanj.

Laws and usages to guide decision of such claims.

3. The Superintendent, in deciding cases of the above nature, shall be generally guided by the established laws and usages of the respective tributary estates:

Bar to partition.

Provided, however, that the estates above enumerated shall in no case be considered liable to be divided according to the Hindu law, but shall descend

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[a] Ben. Reg. XIV of 1805 has been repealed by Act XII of 1876.
[b] As to Bánki, see the Bánki Laws Act, XXV of 1881, *infra* p. 445.
[c] As to Angul, see also *infra*, p. 680.

entire to the person having the most substantial claim according to local and family usage.

4. [*Suits not cognizable if cause of action arose before 14th October, 1803.*] *Rep. by Act XVI of 1874, s. 1.*

5. The established pleaders of the Zila Court shall attend the Superintendent's Court, to be held in the Court-house of the Zila Adálat; and they shall receive the same fees as are authorized on the pleading of causes in the Zila Courts; subject, of course, to the prescribed rules in the cases of paupers. Pleaders of Civil Court to attend Superintendent's Court, and entitled to fees.

6. [*Hindu law to be expounded by Hindu law officer of Zila Court.*] *Rep. by Act XVI of 1874, s. 1.*

7. All processes issued in suits instituted under this Regulation shall bear the official seal and signature of the Superintendent, and shall be executed by the officers on his establishment in like manner as all similar processes issued by the Judge of the Zila Court are executed; Issue of process by Superintendent.

and any disobedience and resistance to his process shall be liable to a fine to Government to be fixed by the Superintendent, subject to the confirmation of the Court of Sadr Diwáni Adálat; or, if the offender be a landholder or sadr farmer, and the case appear to call for it, by a confiscation of his estate or farm, commutable to a fine by the Sadr Diwáni Adálat or Governor General in Council. Penalty for resistance of process.

8. In the trial of all suits instituted under this Regulation the Superintendent shall be guided by the general rules prescribed for the trial of civil causes before the Judges of the Zila Courts, subject to the special provisions contained in this Regulation, or, in points not specially provided for, to any qualification of the general rules which may be found expedient, and may be sanctioned by the Court of Sadr Diwáni Adálat. Rules for trial of suits.

9. It shall not be requisite to use stamped paper for the plaints, pleadings, decrees or any papers relative to suits instituted under this Regulation; nor shall any darkhást on stamped paper be required for the admission of exhibits, or the issue of summonses to witnesses, in such suits when tried in the first instance, or in appeal. Stamped paper not required.

10. [*Deposit on account of Pleader's fee.*] *Rep. by Act XVI of 1874, s. 1.*

11. In all suits decided and orders passed by the Superintendent under this Regulation an appeal from his decisions and orders shall lie to the Court of Sadr Diwáni Adálat: Appeal.

Provided that the petition of appeal be preferred within three months after the decree or order appealed from shall have been passed.

12. The petition of appeal shall be presented to the Superintendent, and Rules for

admitting petition of appeal.

shall contain a full and explicit statement of the appellant's objections to the decree or order from which he is desirous to appeal.

The appellant, if not admitted as a pauper,[a] shall at the same time tender good security for the payment of any costs which may be adjudged on the determination of the appeal by the Sadr Diwáni Adálat, or, if unable to give such security, shall make oath or subscribe a solemn declaration to his inability, or adduce two creditable persons to prove the same.

Procedure of Superintendent on receipt of petition of appeal.

13. On receipt of the petition of appeal, with the prescribed security, or proof of inability required in failure thereof, the Superintendent shall cause a copy to be made of the decree or order from which the appeal may be required, and within fifteen days shall certify and transmit the same, with the petition of appeal, to the Court of Sadr Diwáni Adálat.

Procedure on admission of petition.

14. *First.*—When the Court of Sadr Diwáni Adálat may admit the appeal, they will cause a precept to be issued, under the seal of the Court and the signature of the Register, addressed to the Superintendent, requiring him, within such period as may be limited by the precept, to furnish a complete record of all papers received and proceedings held in the case, and also to call upon the respondent or respondents for his or their answer, or to appear in person or by vakil, within a certain time, before the Sadr Diwáni Adálat, and deliver his or their answer to that Court.

Superintendent to comply with precepts of Sadr Court.

Second.—The Superintendent, on receipt of the precept, shall comply with the exigency thereof, as required; or, in the event of his not being able to carry the same into complete execution within the prescribed period, shall certify the same to the Court of Sadr Diwáni Adálat, with notice of the period within which a further return will be made.

Parties may plead their own causes in appeal, &c.

15. It shall be optional with appellants and respondents, in appeals to the Sadr Diwáni Adálat under this Regulation, to attend in person or by vakil for the prosecution or defence of their appeals before that Court; or to deliver their proceedings to the Superintendent of the Tributary Mahál; who, in the latter case, shall forward them, as soon as received, to the Sadr Diwáni Adálat, and communicate to the parties any orders which may be issued by that Court.

Sadr Court may refer cause back to Superintendent or direct further evidence.

16. In cases wherein it may appear to the Court of Sadr Diwáni Adálat that the cause in appeal has not been sufficiently investigated, and consequently that further evidence is required for the just determination of it, that Court is empowered to refer the cause back for further trial and judgment to the Superintendent, or to direct that further evidence be taken and transmitted to the Court.

[a] Certain words in s. 12, repealed by Act XII of 1876, s. 1, have here been omitted.

17. The provisions contained in section 3 by which the decisions passed by the Superintendent are to be governed shall be considered equally applicable to the decisions of the Sadr Diwáni Adálat in all appeals under this Regulation. Section 3 applied to decisions of Sadr Court;

18. The principles of the several provisions contained in sections[a] 5, 8 and 9 of this Regulation shall also be considered applicable to all appeals from decisions or orders of the Superintendent of the Tributary Maháls in zila Cuttack, which may come before the Court of Sadr Diwáni Adálat. also sections 5, 8 and 9.

19. *First.*—In cases of appeal to the Sadr Díwáni Adálat from any decree or order of the Superintendent involving a transfer of property, or any change in the actual possession of property, the decree or order appealed from shall not be carried into execution during the appeal to that Court: provided the appellant shall give good and sufficient security for the performance of the final decision which may be passed upon the appeal; and in no instance shall the Superintendent cause to be carried into execution any such decree or order passed by him, until the period allowed for the appeal may have elapsed. Execution of decree to be postponed, if appellant give sufficient security.

Second.—In the event of the appellant's not giving security for staying the execution of the decree appealed from, and of its being consequently put into execution whilst an appeal is pending, good and sufficient security shall be taken from the respondent for the performance of the final decision which may be passed upon the appeal. If decree executed pending appeal, respondent to give security.

Third.—In case neither party shall be able to give the requisite security, the estate in dispute shall be attached by order of the Superintendent, until the security required shall be received, or until the final determination be passed by the Sadr Diwáni Adálát upon the case. If neither party gives security, estate to be attached.

Fourth.—No decree or order, whether of the Superintendent of the Tributary Maháls, or of the Sadr Diwáni Adálat, involving a transfer of the property or an actual change in the possession of any of the estates enumerated in section 2 of this Regulation, shall be carried into execution without a previous communication being made by the Sadr Diwáni Adálat to Government, in order that sufficient time may be afforded for the adoption of any precautionary measures which may be eventually judged requisite to support and enforce the execution of the decree or order without hazard to the public tranquillity. Communication to Government before execution of any decree.

20. [*Decisions of Sadr Diwáni Adálat when to be final; appeals to King in Council.*] *Rep. by Act XVI of 1874, s. 1.*

[a] Certain figures and a word in s. 1, repealed by Act XVI of 1874, s. 1, have here been omitted.

REGULATION XII OF 1817.[a]

Passed on the 12th August, 1817.

A Regulation for securing the better administration of the office of patwári in the Ceded and Conquered Provinces, the Provinces of Behar and Benares, the district of Cuttack, the pergunnah of Patáspur and its dependencies.

Preamble.

1. The existing Regulations regarding patwáris have been found to be in many respects defective, and great difficulties and delays have consequently been experienced in the division of estates, the adjustment of the revenue to be assessed on their respective shares, the investigation of summary and other suits for rents, the decision of disputes relating to the limits of estates and villages, and the execution of decrees of the Courts of Judicature, in regard to the possession and property of land:

the reform of the office appears therefore to be an object of the highest importance; but, as for the full attainment of that object the establishment of pargana kánúngos is also requisite, it is deemed advisable to confine the operation of the rules to be enacted for the above purpose to those parts of the country in which kánúngos are already established, or in which arrangements are in progress for the revival and organization of that office.

The following rules have therefore been enacted, to be in force[b] throughout the Ceded and Conquered Provinces, the Provinces of Behar and Benares, the district of Cuttack, the pergunnah of Patáspur, and the several pergunnahs dependent on it:—

2. [*Repeal of enactments relating to appointment of patwáris.*] *Rep. by Act XVI of 1874, s. 1.*

Every village to have separate patwári.

3. Every village paying, or liable to pay, the public revenue shall have a separate patwári, except in cases where the Board of Revenue, or other authority exercising the power of that Board, shall, in consideration of former usage or other sufficient cause, authorize one patwári to do the duty of two or more villages, or direct two or more patwáris to be established in a single village.

4, 5, 6. [*Every village to have a separate patwári; continuation of patwáris now in office; procedure in nominating patwáris.*] *Rep. by Act XVI of 1874, s. 1.*

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[a] The provisions of this Regulation have been extended generally to the Province of Bengal by Ben. Reg I of 1819, s. 4 (2)—see *infra*, p 143. The Regulation has been declared in force in the Sonthal Pergunnahs by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2.

[b] Certain words in s. 1, repealed by Act XVI of 1874, s. 1, have here been omitted.

Vacancies how filled up

7. Whenever a vacancy may occur in the office of patwári, such vacancy shall be filled on the nomination of the zamindár or other landholder or farmer, engaging with Government for the public revenue, who is hereby enjoined to report such nomination to the Collector of the district within one month after the vacancy has taken place:

Provided, however, that in such nomination the zamindár or other landholder or farmer shall be generally guided by the custom which may heretofore have prevailed in the village in respect to the succession of patwáris, and shall not deviate therefrom without previously obtaining the sanction of the Collector, and it shall be the duty of the Collectors carefully to see that this rule is observed, and particularly that the just rights of the inferior puttidárs, or sharers in joint undivided estates, and of dependent taluqdárs, or other under-tenants of the lands, as connected with the appointment of patwáris, are duly maintained.

Procedure of Collector on receiving nomination of patwári.

8. On receiving the report of the nomination of a patwári, as directed to be made in the foregoing section, the Collector is to insert the name of the party in the register of patwáris for his district, unless he shall see good and sufficient ground to object to the person so nominated as disqualified for the office, in which case he is immediately to submit his objections to the Board of Revenue,[a] and the Board[a] will decide whether the zamindár or farmer shall be called upon to nominate another person, or pass such other order on the question as may appear just and right.

Rules regarding patwáris in joint and undivided estates.

9. The proprietors of joint and undivided estates engaging jointly for the public revenue shall be considered jointly and severally bound[b] to nominate a patwári in the mode prescribed in[b] this Regulation, or to show sufficient cause for their failing to do so.

Rules as to patwáris in khás estates.

10. In estates held khás, and in estates under the superintendence of the Court of Wards, the patwári shall be appointed by the Collector.

Penalty in cases of refusal or omission to comply with rules.

11.[c] Should any zamindár or other proprietor or farmer refuse or omit[b] to nominate a patwári in the cases provided for in[b] this Regulation within the time prescribed, and shall fail to show good cause for such neglect or failure, it shall be competent to the Collector, with the approval of the Board[b] of Revenue,[b] to levy a daily fine upon him, until a patwári is nominated, or, with such approval, himself to nominate a qualified person for the office.

Procedure of zamindárs wishing to

12. Whenever a zamindár or farmer engaging with Government for the public revenue may wish to remove a patwári from office, he is to state

[a] Certain words in s. 8, repealed by Act XII of 1876, s. 1, have here been omitted.
[b] Certain words and figures in ss. 9 and 11, repealed by Act XVI of 1874, s. 1, have here been omitted.
[c] S. 11 has been explained by Ben. Reg. I of 1819, s. 6—see *infra*, p. 145.

remove patwári.

his reasons for so doing to the Collector of the district, who, if they appear good and sufficient, will authorize the removal of the patwári, but not otherwise.

Penalties for removing patwári without authority

13.[a] Any zamindár or other landholder or farmer of land removing a patwári from office without the authority of the Collector obtained in the mode prescribed in the preceding section shall be punished by a fine not exceeding fifty rupees for the first offence and one hundred rupees for the second offence,

and if it should appear, on investigation by the Collector, that the removal was unjust and without sufficient cause, the said zamindár or other landholder or farmer of land shall be further subject to a daily fine, with the approbation of the Board of Revenue,[b] but not otherwise, until the patwári be restored.

Patwáris removable on representation of under-tenants.

14. Whenever the inferior pattidárs or sharers, or the raiyats or under-tenants, of a village may petition the Collector for the removal of a patwári, the Collector shall direct such removal, and shall call upon the zamindar or other landholder or farmer of land engaging with Government for the public revenue to appoint another patwári

Provided the reasons adduced for praying such removal appear to the Collector good and sufficient, but not otherwise.

Procedure of Collector desiring to remove patwari

15. Whenever a Collector shall see ground to desire the removal of a patwári for neglect of duty or other sufficient cause, he is to state his reasons to the Board of Revenue,[b] as the case may be, who will authorize the removal or not, as may seem proper.

Duties of patwáris.

16. The duties of the patwári shall be—

First.—To keep such registers and accounts relating to the village or villages to which he is appointed, in such manner and form as has heretofore been the custom, or in such other mode as may be hereafter prescribed by the Board of Revenue,[b] together with such further registers and accounts as may be directed by those authorities respectively.

Second.—To prepare and deliver to the kánúngo of the pargana, at the expiration of every six months, a complete copy of the aforesaid accounts, showing distinctly the produce of the kharif and rabbi harvests.

Third.—To perform all other duties and services which it has been customary for him to execute.

Transmitting and recording

17. The Board of Revenue[b] will determine on the mode in which the

[a] For extension of s 13, to all persons removing a patwari from office without due authority, see Ben Reg 1 of 1819, s 7, *infra*, p. 145

[b] Certain words in ss 13, 15, 16 and 17, repealed by Act XII of 1876, s. 1, have here been omitted

accounts rendered by the patwári to the kánúngo shall be brought forward by the latter, and recorded in the office of the Collectors. patwáris' accounts.

18. The patwári is to be paid hereafter in the same mode as he is now paid, whether in money, or in grain, or in land, or in any other legal manner whatsoever; but it shall be the duty of the several Collectors to complete an account of the mode in which such payment is made in the different parganas or other local divisions of their districts, and to submit the result of their researches to the Board of Revenue or other authority exercising the powers of that Board; and it shall be competent to the Board of Revenue or other authority aforesaid, with the sanction of the Governor General in Council, to increase or reduce the amount of remuneration paid to the patwáris, and to alter or modify the mode of its payment, in any case in which sufficient cause for the adoption of such a measure shall exist. Payment of patwáris, and adjustment of their allowances in certain cases.

19. Where no patwári has hitherto been appointed, the amount of the remuneration to the patwári who may be appointed under this Regulation, and the mode of its payment, shall be regulated by the Collector, with reference to the usage of the adjoining villages. Remuneration of patwáris in villages where none are now appointed.

20. If the remuneration which a patwári has heretofore regularly received or which may be assigned to him by the Collector or other competent revenue authority, be denied to him by the parties who have hitherto paid it, or who may have been directed to pay it by the said authority, he is at liberty to complain against the person so withholding his dues to the Collector, who will proceed to an immediate investigation of the facts, and decide according to the usage of the village; and the Collector is hereby authorized to compel payment of the amount due to the patwári, and to fine the offending party according to his situation and circumstances in life: Procedure on refusal of payment of established remuneration to patwári.

Provided always that the fine in no instance exceed fifty rupees.

21. In all cases in which the decision of the Collector is to be governed by usage, it shall be made an invariable rule to insert in the original proceedings on the case the attested report of the kánúngos of the pargana, as to the custom or usage in reference. Local usage of pargana to be reported by pargana kánúngo.

22. Collectors of land-revenue are hereby empowered to summon the patwári of any village or villages within their respective districts, whenever there may be occasion for his attendance on any matter connected with the duties of his office, and to require him to produce all accounts relating to the lands, produce, rents, collections and charges of the village or villages, the accounts of which may be kept by him, and to examine him on oath to the truth of such accounts, and on any other matters relating to such accounts, or regarding Power to summon patwári and to examine him on oath to the truth of his accounts.

the lands, produce, rents, collections and charges of the village or villages to which the said patwári may belong.

When a Collector shall require the attendance of a patwári for the purpose above stated, he is to serve such patwári with a written notice under his official seal and signature, stating the purpose for which his attendance is required, and the papers (if any) which he is to bring with him.

Power to compel patwáris to produce their accounts.

23. If any patwári shall neglect or omit to produce his original accounts on the requisition of a Collector, or to give his evidence respecting them, the Collector is hereby authorized and empowered to cause the said patwári to be apprehended, and to order him to be confined in the Diwáni jail of the district until he produce his accounts, or show sufficient cause for not producing them.

In such cases the patwári shall be sent by the Collector with a rubakári to the Judge of the city or zila, stating the purport of the order passed against him; and the Judge shall, on those grounds, commit the patwári to jail, and detain him until he produce the accounts, or until the Collector applies for his release.

Patwáris to produce accounts when required by Courts of Justice.

24. In like manner patwáris shall produce all accounts relating to the lands, produce, collections and charges of the village or villages the accounts of which may be kept by them respectively, and furnish every information and explanation that may be required regarding them, whenever they may be required by any Court of Justice, in any suit that may be depending before the Court;

and if any patwári shall neglect or omit to attend with his accounts when required, for the adjustment of any matter or dispute depending in Court, the Courts are authorized to order such patwári to be committed to close custody until he produce the accounts, or show sufficient cause for not having produced them.

Power to require attendance of patwáris on officers deputed to examine village-accounts and to grant commission to swear patwáris.

25. In any case in which a Collector of land-revenue shall have occasion to depute an officer to examine the accounts of any village or villages, he is authorized to require the patwáris to attend such officer, and the Collector is further empowered to grant to such officer a commission to swear the several patwáris whose accounts are to be inspected, inserting in the commission the name of each patwári to be sworn;

and if any such patwári shall neglect or refuse to attend such officer with his accounts, or to give his evidence respecting them, when duly required to do so by a written notice from the Collector, the Collector is hereby authorized and empowered to proceed against such patwári in the same mode as if he

had refused or neglected to attend or to give his evidence before the Collector himself.

26. [*Patwáris giving false depositions, when guilty of perjury.*] *Rep. by Act XII of 1876, s. 1.*

27. In like manner, any patwárí who shall alter, fabricate, falsify or mutilate the accounts of the village to which he belongs, or shall furnish to the kánúngo or Collector false, fabricated or mutilated copies of those accounts, shall be held and considered guilty of forgery, and shall be liable, on conviction[a] to the penalties which are or may be prescribed for that offence;[a]

Punishment for patwáris falsifying or mutilating village-accounts.

and any person who shall cause or procure any such forgery shall be liable to the same penalties as those convicted of having actually committed the offence.

28. [*Existing rules requiring the attendance of proprietors, &c., of lands sold or divided, declared still in force.*] *Rep. by Act XII of 1876, s. 1.*

29. In like manner, whenever an estate or the portion of an estate may be directed to be disposed of at public sale, or may be transferred by the private act of the proprietor or proprietors, or when an estate may be divided pursuant to a decree of a Court of Judicature, or at the request of one or more of the proprietors, or when an estate or portion of an estate may be under attachment, the Collector shall be authorized to require the attendance of all descriptions of Native agents employed by the proprietors or farmers of such estates or farms, in the management of their lands, or keeping the accounts relating to them, and to examine or to cause them to be examined on oath, touching such accounts, in the same manner as he is authorized by sections 22 and 25 of this Regulation to require the attendance and to take or cause to be taken the examination of patwáris;

Power to require attendance of Native agents of proprietors whose estates are to be sold, transferred or divided, and to cause them to be examined on oath touching accounts.

and if such agents shall refuse or neglect to attend the Collector or his officer, when their attendance may be duly required, or to give their evidence, the Collector is authorized and empowered to proceed against them in the same manner as is prescribed in the case of patwáris refusing or neglecting to attend.

30. [b] Provided further that the rules contained in section 27 shall be held and considered applicable to all such Native agents employed by proprietors or farmers of land, in the management of their estates or farms, or in keeping the accounts relating to them.

Section 27 applied to Native agents.

31. Whenever a Collector of land-revenue, or other officer vested with the

Procedure in

[a] Certain words in s. 27, repealed by Act XVI of 1874, s. 1, have here been omitted.
[b] S. 30 was repealed, so far as it related to s. 26, by Act XII of 1876, s. 1.

cases not provided for when attendance of proprietors or farmers with accounts is required.

powers of a Collector, may in any case connected with his public duty, but not provided for in this or any other Regulation in force, have occasion to require the attendance of a zamindár or other proprietor or farmer of lands, or of the gumáshta or other officer or agent of such proprietor or farmer, with the accounts of such lands, he shall report the circumstance to the Board of Revenue,[a] and the ~~Boards[b] are~~ hereby empowered to grant authority to the Collector or other officer aforesaid, to require the attendance of the proprietor or farmer, or of the gumáshta or other officer or agent, with all accounts relating to the lands in their possession or management.

Notice to person required to attend.

32. A written notice shall in such cases be issued by the Collector or other officer to the party whose attendance is required, stating the purpose for which he is summoned, and the papers (if any) which he is to bring with him;

Penalty for omission or refusal.

and, if the proprietor or farmer shall omit or refuse to attend, or cause his officer or agent to attend, by the time prescribed in the Collector's requisition, with the accounts and information required, the Board of Revenue[a] are authorized and empowered to impose upon him such daily fine, to be payable daily until he complies with the Collector's requisition, as they may think adequate to his situation and circumstances in life; ~~reporting, however, the amount for the information of the Governor-General in Council.~~

The fine, ~~when confirmed by Government,~~ is to be levied by the same process as is prescribed for the recovery of arrears of revenue.[c]

Provision in cases where appointment of village-patwáris is inexpedient.

33. [d] In cases in which, from local or other sufficient causes, it may appear impracticable or inexpedient to cause the appointment in any estate or farm of patwáris, in the mode prescribed in this Regulation, as, for instance, in certain estates consisting chiefly of hills and forests in the south-western frontier, and in very small maháls, the accounts of which are kept by the proprietors themselves, it shall be competent to the Board of Revenue [b] to suspend its operation in such estates or farms:

Provided, however, that in all such cases the person by whom the village-accounts are kept, whether proprietor or farmer, or gumáshta or other officer, shall furnish the kánúngo of the pargana with such accounts and statements as the Collector, with the approval of the Board,[a] may direct, and shall be subject to the provisions contained in sections 22, 23, 24, 25 and 27 of this Regulation; and the proprietors or others by whom they may be employed shall likewise be subject to the provisions contained in section 27.

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[a] Certain words in ss. 31, 32 and 33, repealed by Act XVI of 1874, s. 1, have here been omitted.
[b] ~~Sic. Read "Board."~~
[c] For power of Collectors ~~in Bengal~~ to impose daily fine, leviable without confirmation, see Act XX of 1848, *infra*, p. 280.
[d] S. 33 was repealed, so far as it related to s. 26, by Act XII of 1876, s. 1.

34. No Court of Judicature shall take cognizance of the complaint of a patwári against the landholder, or the tenants of a village, for refusing to remunerate his labours, nor shall any Court of Judicature take cognizance of any complaint against a Collector for, or on account of, any decision passed by him in virtue of the powers with which he is vested by this Regulation.

In what cases Courts prohibited from taking cognizance of complaints of patwáris.

35. ~~It shall be the duty of the Collectors to furnish the Board of Revenue~~ with a periodical report of all judgments passed by them under section 20 of this Regulation; and such judgments shall be liable to reversal or alteration by the Board *or Commissioner*, at any time within six months after passing ~~the same, but not later.~~

Collectors to furnish periodical report of judgments passed under section 20.

36. All sums adjudged by the Collector in favour of a patwári under section 20, and all fines directed to be levied by this Regulation, shall be recoverable by the same processes as arrears of the public revenue; and all such fines, when recovered, shall be carried to the account of Government.

Recovery and appropriation of fines, &c.

REGULATION XX OF 1817.[b]

Passed on the 7th October, 1817.

A Regulation for reducing into one Regulation, with amendments and modifications, the several rules which have been passed for the guidance of dároghas and other subordinate officers of police; ~~for modifying the existing rules concerning the re-~~ sistance or evasion of criminal process, and for requiring further aid to the police in certain cases, from proprietors and farmers of land and their local managers, as well as from the ~~mandals and other heads of villages.~~

Ref. Act 10 of 1837

1—8. [*Preamble; local extent; repeals; appointment and removal of police-officers; rank and functions of officers on tháná establishments; seal and police accoutrements; police-officers at outposts; leave rules; tháná records.*] *Rep. by Act XVI of 1874, s. 1.*

9. [*Police returns, &c, to be sent to Magistrates or Superintendents.*] *Rep. by Act XVII of 1862, s. 1.*

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[a] ~~Certain words in s. 35, repealed by Act XVI of 1874, s. 1, have been omitted.~~

[b] Ss. ~~24 (since repealed),~~ 29, 30, clauses (1), (2) and (5), and 32 (since repealed) of this Regulation have been declared to apply to the whole of Bengal except the Scheduled Districts by Act XV of 1874, s. 6, and under s. 3 of the Scheduled Districts Act, 1874, the unrepealed sections were declared in force in West Jalpáiguri, Western Dwárs, Western Hills, the Terai, Dumson, the districts of Hazáribágh, Lohardugga and Manbhoom and Pergunnah Dhalbhoom—see *infra*, pp. 628 and 651; ~~also in the district of Sylhet—see Appendix to Assam Supplement.~~

10, 11. [*Dáks for official papers; prohibition of irregular practices.*] *Rep. by Act XVI of 1874, s. 1.*

12—20. [*Charges not cognizable by police; duties of officers on receiving charges; rules for holding inquests; inquiries in case of heinous offences; search for stolen property; duties of police with regard to coiners, &c.; in case of riots; in treatment of prisoners; in regard to notorious offenders.*] *Rep. by Act XVII of 1862, s. 1.*

Village-watchmen.

Dároghas to keep complete list of village-watchmen.

21.[a] *First.*—It shall be the duty of the dároghas of police, under the guidance and instruction of the Magistrate, to prepare and keep up at their thánás a complete register of the village-watchmen employed within the limits of the authority of the said dároghas respectively, drawn out after the form No. 6 of the Appendix;

Zamíndárs or others to nominate successor on occurrence of vacancy.

and, upon the death or removal of any of the watchmen, the landholders and other persons to whom the right of nomination to such vacancies shall belong, shall send the names of the persons whom they may appoint to the dárogha of the jurisdiction, that they may be registered by him as above directed.

Village-watchmen subject to police-dároghas.

Second.—The village-watchmen are declared subject to the orders of the police-dároghas.

Delivery of reports of watchmen residing at a certain distance from the thánás.

Third.—Village-watchmen who may reside within one kos of the tháná station to which they may be subject shall report daily to the tháná all occurrences connected with the police which may have happened in their respective villages during the preceding twenty-four hours; village-watchmen residing from one to three kos distant from the tháná shall furnish similar reports twice every week; and all other watchmen whose residence may be situated at a greater distance shall report once in every week or fortnight, as they may be specially instructed by the police dárogha so to do.

Occurrences reported by village-watchmen to be entered in thá-ná diaries.

Fourth.—All occurrences reported by the village-watchmen shall be recorded by the muharrirs in the tháná diaries; but it shall not be considered necessary to enter in such diaries the reports of watchmen who have no communication to make further than that the peace of their divisions has been undisturbed since their last report.

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[a] S. 21 has been repealed, as to all villages to which Ben. Act VI of 1870 applies, and in which a chaukidár has been appointed—see Ben. Acts VI of 1870, s. 2, and I of 1871, s. 1.

It has also been repealed, so far as it affects any place to which Ben. Act V of 1887 (the Chota Nagpore Rural Police Act) applies, by s. 38 of that Act, ~~and in the districts of Sylhet and Cachar, by Reg I of 1883, s. 3.~~

Fifth.—The village-watchmen shall apprehend and send to the dárogha or other police-officer presiding at a thánáa any person who may be taken in the act of committing murder, robbery, house-breaking or theft; also proclaimed offenders and persons against whom a hue and cry shall have been raised of their having been concerned in a recent criminal offence. Proclaimed offenders, &c., to be sent to thánáa by village-watchmen.

It shall further be the special duty of the village-watchmen to convey to the thánáa immediate intelligence of any robbers who may have concealed themselves in their respective villages, or in the adjacent country; and also of any vagrants, or other persons who may be lurking about the country without any ostensible means of subsistence, and who cannot give a satisfactory account of themselves.

It shall likewise be the business of the village-watchmen to convey early intimation to the thánáa of all murders, robberies, burglaries, thefts, violent affrays and other heinous offences perpetrated in the villages or places in which they may be stationed.

Sixth.—The report of the village-watchmen to the police-officers of the regular establishments shall be made verbally; and they shall not, unless they appear as prosecutors, be sworn to their depositions at the thánáas, or be detained at the thánáas, or sent into the Magistrate's Court, unless on account of misconduct, or under the special orders of the Magistrate. Receiving reports of village-watchmen.

Seventh.—Dároghas of police shall invariably ascertain and report, when making inquiries on the occasion of any robbery, burglary or theft, the conduct of the village-watchmen; and whether they were present at their posts when the offence was perpetrated; if not, the cause of their absence, and whether there may be reason to believe that they were themselves concerned in, or connived at, the commission of the crime. Supervision to be exercised by dároghas.

In the event of any neglect or suspicion of criminality attaching to a village-watchman, the dárogha shall either send the individual to the Magistrate, with a separate report of the grounds of the charge exhibited against him, and evidence to establish the same, or shall forward a report in the first instance, and wait the instructions of the Magistrate, as the nature of the alleged offence may dictate.

In the event of any gross neglect or misconduct in the discharge of his duty as a police-officer being established against a village-watchman, he shall be liable to dismission from his station by order of the Magistrate, independently of any punishment to which he may be subject for specific acts of criminality under the laws and Regulations in force. Penalty for negligence or misconduct.

Eighth.—The dároghas or their police-officers are prohibited, under penalty Watchmen not to be

employed on dároghas' private concerns.

of dismission from office, from employing the village-watchmen on their private concerns, or on any duties unconnected with the police.

In places where regular police-establishments are stationed, watching by whom to be performed.

Ninth.—In those towns and villages where the dároghas of the mufassal police jurisdiction, or the officers of outposts, may be stationed, the duties of watching and patrolling shall be performed conjointly by the regular police-officers and the village-watchmen; and private watchmen, entertained by individuals for guarding their habitations, shops or warehouses, shall also afford their assistance, and be considered subject, in the performance of this duty, to the orders of the police-dároghas of the station.

Village-watchmen to resist robbers and to require zamindárs and headmen to assist in pursuit and apprehension of criminals.

Tenth.—On the occurrence of a gang or highway robbery, or any robbery by open violence, murder, burglary or theft, attended with wounding, or any other heinous offence, attended with a violent breach of the peace, the village-watchmen shall, to the utmost of their ability, resist and endeavour to apprehend the offenders, and shall require the headmen of the village to collect the inhabitants and to oppose and seize the criminals, or to pursue them if they have fled;

and it shall be incumbent on the inhabitants of the villages through which, or near to which, the pursuit may lie, to afford, on the requisition of the village-watchmen or other police-officer, every practicable assistance towards the apprehension of the robbers or other offenders, and recovery of any property stolen or plundered by them, continuing the pursuit from village to village.

22—26. [*Concurrent jurisdiction of police-dároghas; prosecutors and witnesses; summons, arrest and bail; resistance or evasion of criminal process.*] *Rep. by Act XVII of 1862, s. 1.*

27. [*Distraint for arrears of land-rent.*] *Rep. by Act X of 1859, s. 1.*

28. [*Abkári.*] *Rep. by Act XII of 1876, s. 1.*

Execution of Criminal Process in the Commercial, Salt and Opium Departments; and Duties of Dároghas relating to those Departments.

Security for appearance of persons employed under Opium Department accused of bailable offences.

29.[a] *First.*—In all bailable cases, where it may be necessary, under the provisions of this Regulation, to summon or apprehend any[a, b] officer or person[b] employed in the [a, b] Opium Department, the dároghas of police shall transmit the summons or warrant, under a sealed cover, addressed to the [a, b] Opium Agent, or the head Native officer of the árang, kothi or chauki, who will either give, or direct sufficient security to be given, for the due attendance of

[a, b] Certain words in cl. (1) of s. 29, repealed, respectively, by Acts XVI of 1874, s. 1, and XII of 1876, s. 1, have here been omitted.

the party, certifying on the back of the process the manner in which it has been served, and by whom the security has been given, or causing the defendant to accompany the officer bearing the dárogha's process to the tháná.

In such cases the accused not to be forced to appear till manufacturing season.

Second.—In cases of bailable nature, in which a person under engagements, and employed in the [a, b] Opium Department, may be summoned under the provisions of the preceding clause, during the manufacturing season, the dárogha of police shall, with the view of preventing unnecessary interruption to the manufacturer, require the party summoned to appear in person or by vakil, either during or after the manufacturing season, as the circumstances of the case may dictate, subject to the future orders of the Magistrate, to whom the dárogha shall in each instance report the reasons which may have influenced him in the exercise of the discretion here vested in him.

Rules for serving summonses on witnesses employed in the Company's árangs, and form of their recognizance.

Third.—Summonses to [a, b] any officers or persons[b] employed in the [a, b]Opium Department, to attend as witnesses, shall be served in the manner directed by the preceding clauses of this section; but the [a, b]Opium Agent, or the head Native officer of the árang, kothi or chauki shall, instead of requiring the person summoned to give security, or proceed to the tháná, take from the witness a recognizance agreeable to the form No. 13 of the Appendix, and shall deliver the same to the officer serving the process.

Warrants for offences not bailable to be served upon persons so employed, as upon others;

Fourth.—If a charge shall be preferred to a police-dárogha against any[a] officer or person [a, b]employed in the [a, b]Opium Department, for an offence that is not bailable, and there shall appear to the dárogha of police sufficient ground under the provisions of this Regulation for apprehending the person so charged, the warrant for his apprehension shall require him to attend immediately in person, and shall be executed in the same manner as upon persons not so employed.

the dárogha giving notice to Agent.

But the dárogha, after securing the offender, is to give notice of his apprehension to the [a, b]Opium Agent, or to the head officer of the nearest árang, kothi or chauki, as the case may be.

Fifth to Eighth.—[*Dároghas to assist in seizure of illicit salt, to give notice of illicit importations, &c., not to seize in first instance of their own authority; penalty for unwarranted seizure.*] *Rep. by Act VIII of 1875, s. 2.*

Police-officers to suppress illicit cultivation of opium.

Ninth.—All officers of police are strictly enjoined, under pain of dismission from office, to assist in suppressing the illicit cultivation, manufacture, sale, purchase, importation, transportation or possession of opium.[a]

Tenth and Eleventh.—[*Dárogha to report illegal cultivation of poppy; to take security for offender's appearance.*] *Rep. by Act XVI of 1874, s. 1.*

[a, b] Certain words in cls. (2), (3), (4) and (9) of s 29, repealed, respectively, by Acts XVI of 1874, s. 1, and XII of 1876, s. 1, have here been omitted.

Penalty for allowing illicit cultivation.

Twelfth.—Any police-dárogha who shall knowingly permit the cultivation of the poppy within his jurisdiction, or who shall be convicted of conniving in any respect at the illicit cultivation of the poppy, shall, besides being liable to dismission from office for neglect of duty, be further subject, on conviction before the Magistrate of the zila, to the payment of the fine stated in ~~section 31, Regulation XIII, 1816,~~[a] for whatever quantity of land shall have been so illegally cultivated within his jurisdiction with his knowledge or connivance; and the fine, if not duly paid, shall be commutable to imprisonment for a period not exceeding six months.

a Act XIII of 1857, Section 21 a

Miscellaneous Rules regarding Forts, Armed Men, Military Stores, Dress of Sepoys or Lascars, and ~~Badges~~, Public Roads ~~and Insane Persons.~~ Rep. XII of 1891

Dároghas to report circumstances appearing dangerous to public peace.

30. *First.*—The dároghas of police shall uniformly report to the Magistrates whenever any individuals within their respective jurisdictions may entertain in their service any extraordinary number of armed men, or may commence building or repairing any fort or garhi, or collecting together any quantity of arms, ammunition or military stores.

To apprehend unauthorized persons dressed in uniform of Company's sepoys.

Second.—The dároghas of police are required to apprehend and send to the Magistrate[b] all persons not actually in the Honourable Company's military service, or belonging to persons specially exempted by Government from the operation of the rule contained in the section above-mentioned, who may be found dressed in the uniform of the Company's sepoys or lascars, or in a dress so nearly approaching to that uniform, as to enable the persons wearing it to impose themselves on the country people for sepoys and lascars.

Third.—[*Police to apprehend certain Native officers, &c., travelling in uniform, when not employed on public service.*] *Rep. by Act XVI of 1874, s. 1.*

Fourth.—[*Dároghas to apprehend persons wearing badges.*] *Rep. by Act XVIII of 1835.*

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[a] Ben. Reg. XIII of 1816 has been repealed by Act XIII of 1857. S. 31 is as follows:—"Any person who shall cultivate the poppy in opposition to the prohibition contained in section 3 of this Regulation shall be liable to prosecution before the Collector of the land-revenue or other officer in charge of the ábkárí mahál of the district, and on conviction shall be subject to a penalty, to be calculated at the rate of twenty sikka rupees per bighá for whatever quantity of land shall have been so illegally cultivated; and if the poppy-plants shall be growing on the said land, and the opium shall not have been extracted therefrom, the plants shall be destroyed.

"If the opium shall have been extracted and shall be seized, the same shall be confiscated.

"If the opium shall have been extracted and shall not be seized, the cultivator of the said land shall be subject to a penalty of thirty-two sikká rupees per bighá, instead of twenty sikká rupees per bighá, as above directed.

"In addition to the above penalties, the offender shall be liable to imprisonment for a period not exceeding six months, and to further imprisonment not exceeding six months more, in the event of the fine not being duly discharged."

[b] Certain words in cl. (2) of s. 30, repealed by Act XVI of 1874, s. 1, have here been omitted.

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(a-a) Substituted by Act XII of 1891

Fifth.—The dároghas of police shall prevent all encroachments on the public roads, and shall, at the same time, report the circumstances of each case for the information of the Magistrate, and record an abstract of the same in his thánadári proceedings. Dároghas to report encroachments on public roads.

Sixth.—[*Persons dangerously insane to be sent to sadr station.*] *Rep. by Act XVI of 1874, s. 1.*

31. [*Judges of Circuit and Europeans.*] *Rep. by Act XVI of 1874, s. 1.*

32. [*Despatches of treasure.*] *Rep. by Act XII of 1876, s. 1.*

33—34. [*Rules relating generally to landholders, managers of estates, &c.; police of cities.*] *Rep. by Act XVI of 1874, s. 1.*

FORM No. 6.[a]

REGISTER of Village Watchmen, and Alphabetical List of Villages.

Names of Villages.	Distance and Direction from the Thánd station.	Names of the Proprietors or Managers, and situated in what Pargana.	Names of the Chaukidárs or Watchmen attached to each Village.	Estimated Number of Houses in each Village.	Remarks.

FORM No. 13.

RECOGNIZANCE to be taken from a Witness.

Whereas I , inhabitant of , have been named as a witness in the case of : I hereby engage to appear before the Magistrate of the zila [*or* city] of , on or before the , for the purpose of giving evidence; in default whereof I hereby further bind myself to pay such fine to Government as the Magistrate may judge proper to impose upon me, as well as any expense that may be incurred in consequence of my non-attendance, for compelling my appearance: in this I will not fail. Dated [*according to the current era*].

1, 4, 5, 7, 9 & 12 and 15 & 21 repealed by Act XII of 1891

[a] The forms Nos. ~~1—6, 7—12 and 14—21~~ have been ~~omitted~~, as the sections referring to them have been repealed.

See S. 21, cl. first

See S. 29, cl. third

Forms 2, 3, 8 and 14 Repl. by Ben. Reg. VIII of 1825

REGULATION III OF 1818.[a]

Passed on the 7th April, 1818.

A Regulation for the confinement of State Prisoners.

Preamble

1. Whereas reasons of State, embracing the due maintenance of the alliances formed by the British Government with foreign Powers, the preservation of tranquillity in the territories of Native Princes entitled to its protection, and the security of the British dominions from foreign hostility and from internal commotion, occasionally render it necessary to place under personal restraint individuals against whom there may not be sufficient ground to institute any judicial proceeding, or when such proceeding may not be adapted to the nature of the case, or may for other reasons be unadvisable or improper;

and whereas it is fit that, in every case of the nature herein referred to, the determination to be taken should proceed immediately from the authority of the Governor General in Council;

and whereas the ends of justice require that, when it may be determined that any person shall be placed under personal restraint, otherwise than in pursuance of some judicial proceeding, the grounds of such determination should from time to time come under revision, and the person affected thereby should at all times be allowed freely to bring to the notice of the Governor General in Council all circumstances relating either to the supposed grounds of such determination, or to the manner in which it may be executed;

and whereas the ends of justice also require that due attention be paid to the health of every State prisoner confined under this Regulation, and that suitable provision be made for his support according to his rank in life, and to his own wants and those of his family;

and whereas the reasons above declared sometimes render it necessary that the estates and lands of zamindárs, taluqdárs and others situated within the territories dependent on the Presidency of Fort William should be attached and placed under the temporary management of the Revenue-authorities, without having recourse to any judicial proceeding;

and whereas it is desirable to make such legal provisions as may secure

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[a] This Regulation has been declared to apply to the whole of Bengal except the Scheduled Districts by Act XV of 1874, s 6. It has also been declared in force by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s 2, in the Sonthal Pergunnahs, and under s 3 of the Scheduled Districts Act, 1874, in West Jalpáiguri, Western Dwárs, the districts of Hazáribágh, Lohardugga and Manbhoom and Pergunnah Dhalbhoom—see *infra*, pp 628 and 651, ~~also in the district of Sylhet—see Appendix to Assam Supplement.~~

The Regulation has been extended to the local limits of the jurisdiction of the Supreme Court of Judicature at Calcutta by Act III of 1858, s 2.

Prisoners detained under this Regulation are not affected by s. 491 of the Code of Criminal Procedure, 1882—see s. 491 (last clause) of the Code.

The Regulation has been extended under S. 5 of the Scheduled Districts Act, 1874, to the Darjeeling district the Kolhan and the Mahals of Angul See Cal. Gaz. 20-3-89 Part I page 157

from injury the just rights and interests of individuals whose estates may be so attached under the direct authority of Government;

the Vice-President in Council has enacted the following rules, which are to take effect throughout the provinces immediately subject to the Presidency of Fort William, from the date on which they may be promulgated:

Proceeding for placing persons under restraint as State prisoners.

2. *First.*—When the reasons stated in the preamble of this Regulation may seem to the Governor General in Council to require that an individual should be placed under personal restraint, without any immediate view to ulterior proceedings of a judicial nature, a warrant of commitment under the authority of the Governor General in Council, and under the hand of the Chief Secretary, or of one of the Secretaries to Government, shall be issued to the officer in whose custody such person is to be placed.

Form of warrant.

Second.—The warrant of commitment shall be in the following form:—

To the[a] [*here insert the officer's designation*].

"Whereas the Governor General in Council, for good and sufficient reasons, has seen fit to determine that [*here insert the State prisoner's name*] shall be placed under personal restraint at [*here insert the name of the place*], you are hereby required and commanded, in pursuance of that determination, to receive the person above-named into your custody, and to deal with him in conformity to the orders of the Governor General in Council and the provisions of Regulation III of 1818.

"Fort William, the

"By order of the Governor General in Council,

"*A. B.*, Chief Secy. to Govt."

Authority of warrant.

Third.—The warrant of commitment shall be sufficient authority for the detention of any State prisoner in any fortress, jail or other place within the territories subject to the Presidency of Fort William.[b]

Officers having custody of State prisoners to submit periodical reports.

3. Every officer in whose custody any State prisoner may be placed shall, on the 1st of January and 1st of July of each year, submit a report to the Governor General in Council, through the Secretary to Government in the Political Department, on the conduct, the health and the comfort of such State prisoner, in order that the Governor General in Council may determine whether the orders for his detention shall continue in force or shall be modified.

State prisoners in custody of Zila or City Magistrate, by whom to be visited.

4. *First.*—When any State prisoner is in the custody of a Zila or City Magistrate, the Judges[c] are to visit such State prisoner on the occasion of the periodical sessions, and they are to issue any orders concerning the treatment of the State prisoner which may appear to them advisable, provided they be

[a] As to whom warrants may be addressed, see Act XXXIV of 1850.

[b] For power to remove a State prisoner to any other place of confinement in British India, see Act III of 1858, s. 5.

[c] Certain words in s. 4 (1), repealed by Act XVI of 1874, s. 1, have here been omitted.

not inconsistent with the orders of the Governor General in Council issued on that head.

State prisoners in custody of public officer, not being Zila or City Magistrate, by whom to be visited.

Second.—When any State prisoner is placed in the custody of any public officer not being a Zila or City Magistrate, the Governor General in Council will instruct either the Zila or City Magistrate, or the Judge[a] or any other public officer, not being the person in whose custody the prisoner may be placed, to visit such prisoner at stated periods, and to submit a report to Government regarding the health and treatment of such prisoner.

Representations by State prisoners to be submitted to Government.

5. The officer in whose custody any State prisoner may be placed is to forward, with such observations as may appear necessary, every representation which such State prisoner may from time to time be desirous of submitting to the Governor General in Council.

Report to Government regarding confinement, &c., of prisoners.

6. Every officer in whose custody any State prisoner may be placed shall, as soon after taking such prisoner into his custody as may be practicable, report to the Governor General in Council whether the degree of confinement to which he may be subjected appears liable to injure his health, and whether the allowance fixed for his support be adequate to the supply of his own wants and those of his family, according to their rank in life.

Appropriation of allowance for support.

7. Every officer in whose custody any State prisoner may be placed shall take care that the allowance fixed for the support of such State prisoner is duly appropriated to that object.

8. [*Applicability of ss. 3-7 to persons now confined as State prisoners.*] *Rep. by Act XVI of 1874, s. 1.*

Attachment of estates by order of Government without decision of Court.

9. Whenever the Governor General in Council, for the reasons declared in the preamble to this Regulation, shall judge it necessary to attach the estates or lands of any zamindár, jágirdár, taluqdár or other person, without any previous decision of a Court of Justice or other judicial proceeding, the grounds on which the Resolution of Government may have been adopted, and such other information connected with the case as may appear essential, shall be communicated, under the hand of one of the Secretaries to Government, to the Judge and Magistrate of the district in which the lands or estates may be situated, [b]to[b] the Sadr Diwáni Adálat and Nizámat Adálat.

Management of attached estates.

10. *First.*—The lands or estates which may be so temporarily attached shall be held under the management of the officers of Government in the Revenue Department, and the collections shall be made and adjudged on the same principles as those of other estates held under khás management.

Attached lands not

Second.—Such lands or estates shall not be liable to be sold in execution

[a] Certain words in ss. 4 (*2*) and 9, repealed by Act XVI of 1874, s. 1, have here been omitted.
[b] Sic, read "and to."

[b] inserted by act XII of 1891

of decrees of the Civil Courts, or for the realization of fines or otherwise, during the period in which they may be so held under attachment. liable to sale in execution.

Third.—In the cases mentioned in the preceding clause the Government will make such arrangement as may be fair and equitable for the satisfaction of the decrees of the Civil Courts. Government to arrange for satisfaction of decrees.

11. Whenever the Governor General in Council shall be of opinion that the circumstances which rendered the attachment of such estate necessary have ceased to operate, and that the management of the estate can be committed to the hands of the proprietor without public hazard or inconvenience, the Revenue-authorities will be directed to release the estate from attachment, to adjust the accounts of the collections during the period in which they may have been superintended by the officers of Government, and to pay over to the proprietor the profits from the estate which may have accumulated during the attachment. Rules as to cases where Government orders release of estate from attachment.

REGULATION I OF 1819.[a]

Passed on the 5th February, 1819.

A Regulation *for replacing the districts of Dinagepore and Rungpore under the management of the Board of Revenue; for extending the authority of the Board of Commissioners in Behar and Benares to the district of Gorakhpur*; for re-establishing Kánúngos and reforming the office of Patwári throughout the Province of Bengal; and for explaining and modifying certain parts of Regulation XII, 1817.

1—3. [*Preamble; controlling Revenue-authorities in Dinagepore, Rungpore, and Gorakhpur.*] *Rep. by Act XII of 1873, s. 1.*

4. *First.*—Kánúngos shall be appointed throughout the Province of Bengal in the same manner, and for the performance of the same duties, as are prescribed in Regulation V, 1816, in regard to the district of Cuttack, the pargana of Patáspur and its dependencies; and all the rules contained in the Regulation aforesaid are hereby extended generally to the Province of Bengal. Appointment of kánúngos throughout Bengal.

Second.—The provisions of Regulation XII, 1817, are in like manner hereby extended to the several districts of the said Province to which they have not yet been applied. Regulation XII of 1817 extended.

Third.—Provided, however, that in cases in which it may not appear advisable, from whatever cause, to leave the selection and nomination of the Nomination of kánúngos by persons

[a] This Regulation has been declared in force in the Sonthal Pergunnahs by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2.

other than Collectors.

kánúngos to the Collector of the district, it shall be competent to the Governor General in Council to appoint such other officer specially to perform that duty, as he may judge expedient; and the officer so appointed shall have and exercise, during such period as the Governor General in Council may direct, the same powers as are vested generally in Collectors of land-revenue under the provisions of Regulation V, 1816, and Regulation XII, 1817.

But nothing herein contained shall be construed to preclude the person holding permanently the office of Collector in such district from discharging the ordinary duties of his situation under the general rules and Regulations applicable to that branch of the public service.

Power to suspend operation of rules regarding kánúngos and patwáris.

Fourth.—Provided further that it shall be competent to the Governor General in Council to suspend the operation of the rules contained in this or any former Regulation, regarding kánúngos and patwáris, within any mahálsin which the establishment of such officers, as prescribed in those rules, may appear to be inexpedient.

Board of Revenue may alter duties of kánúngos,

Fifth.—Provided likewise that it shall be competent to the Board of Revenue, or other authority exercising the powers of that Board, to make such alteration in the duties to be performed by kánúngos as local circumstances shall suggest: ~~anything in section 7, Regulation IV, 1808,[a] and other corresponding enactments, to the contrary notwithstanding~~.

Ref. XII of 1859

and suspend operation of Regulation XII, 1817, in certain places.

Sixth.—Provided also that it shall be competent to the Board of Revenue to suspend by proclamation the operation of the rules of Regulation XII, 1817, in the districts of Chittagong and Sylhet, and in any other parts of the country in which individual estates may generally be of inconsiderable extent, until they shall have determined, under the discretion vested in them by sections 3, 18 and 33 of that Regulation, the number of patwáris to be appointed or retained, the mode in which they are to be remunerated and the mahálsto be permanently exempted from its general operation.

Collector may nominate and appoint patwári in certain cases.

5. In all cases in which any village or villages, or any lands whatsoever, the accounts of which may be kept by a single patwári, shall be held by two or more persons under distinct engagements with Government, it shall be competent to the Collector, with the approval of the Board of Revenue or other authority exercising the powers of that Board, to assume the direct nomination and appointment of such patwári, with or without a reference to the proprietors.

But in all such cases the Collector shall deviate as little as possible from

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[a] ~~Bom. Reg. IV of 1808 has been repealed by Act XIX of 1873.~~

established usage, and shall be careful to consult the inclinations, and maintain the interests, of all persons connected with the maháls in question.

Explanation of section 11, Regulation XII, 1817.

6. In explanation of section 11, Regulation XII, 1817, it is hereby declared and enacted that, if any proprietor or farmer of land shall refuse or omit to furnish the statement required by section 4 of that Regulation within the period therein prescribed, or at any subsequent period, when called upon to do so by the Collector or other officer exercising the powers of Collector, it shall be competent to the Collector or other officer aforesaid, with the approval of the Board of Revenue or other authority exercising the powers of that Board, to levy a daily fine upon such proprietor or farmer, until the statement required be furnished, to such amount as may appear proper, with reference to the circumstances of the case, and to the condition in life of the offender.

Penalty for unauthorized removal, &c., of patwári.

7. The penalties prescribed in section 13, Regulation XII, 1817, for the illegal removal of a patwári from office, by a zamindár or other proprietor or farmer of land, are hereby declared applicable to all persons whatsoever who may, without due authority, remove from office any patwári duly constituted or appointed; or who may oppose a patwári so appointed or constituted, in the performance of his duties; or who may prevent his performing them, or who may resist or evade the entry of a patwári, when duly appointed, into the possession of his office.

REGULATION II OF 1819.[a]

Passed on the 12th February, 1819.

A Regulation for modifying the provisions contained in the existing Regulations, regarding the resumption of the revenue of lands held free of assessment under illegal or invalid tenures, and for defining the right of Government to the revenue of lands not included within the limits of estates for which a settlement has been made.

Preamble.

1. The rules contained in Regulations XIX and XXXVII, 1793, relative to the resumption of the revenue of lands held free of assessment under illegal or invalid tenures, and the corresponding provisions enacted in subsequent

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[a] This Regulation has been declared to apply to the whole of Bengal except the Scheduled Districts by Act XV of 1874, s. 6. It has also been declared in force by Regulation III of 1872, s. 3, as amended by Regulation III of 1886, s. 2, in the Sonthal Pergunnahs, and under s. 3 of the Scheduled Districts Act, 1874, in West Jalpáiguri, the districts of Hazáribágh, Lohardugga and Manbhoom and Pergunnah Dhalbhoom—see *infra*, pp. 628 and 652.

The Regulation has been repealed in the territories to which the Assam Land and Revenue Regulation, 1886 extends—see Reg. I of 1886, s. 2, Assam Supplement.

years, having been found inadequate to secure the just rights of Government, have from time to time been partially repealed or modified.

Those rules, however, are still in force within several of the districts subordinate to this Presidency, and the Regulations by which they have in other districts been superseded appear to be in several respects defective.

It further appears to be necessary, in order to obviate all misapprehension on the part of the public officers, or of individuals, to declare generally the right of Government to assess all lands which, at the period of the decennial settlement, were not included within the limit of an estate for which a settlement was concluded with the owners, not being lands for which a distinct settlement may have been made since the above period, nor lands held free of assessment under a valid and legal title, and at the same time formally to renounce all claim on the part of Government to additional revenue from lands which were included within the limits of estates for which a permanent settlement has been concluded, at the period when such settlement was so concluded, whether on the plea of error or fraud, or on any pretext whatever, saving, of course, mahâls expressly excluded from the operation of the settlement.

With the view, therefore, of establishing, on proper principles, one uniform course of proceeding in resuming the revenue of lands liable to assessment, so that the dues of Government may be secured without infringement of the just rights of individuals, the following rules have been enacted, to be in force from the date of their promulgation throughout the Provinces immediately subordinate to the Presidency of Fort William:

2. [*Repeals.*] *Rep. by Act XVI of 1874, s. 1.*

Lands not included in decennial settlement, &c., liable to assessment, except lands held free of assessment under valid title.

3. *First.*—It is hereby declared and enacted that all lands which, at the period of the decennial settlement, were not included within the limits of any pargana, mauza or other division of estates for which a settlement was concluded with the owners, not being lands for which a distinct settlement may have been made since the period above referred to, nor lands held free of assessment under a valid and legal title of the nature specified in Regulations XIX and XXXVII, 1793, and in the corresponding Regulations subsequently enacted, are and shall be considered liable to assessment in the same manner as other unsettled mahâls, and the revenue assessed on all such lands, whether exceeding one hundred bighâs or otherwise, shall belong to Government:

Proviso.

Provided, however, that nothing in the above rule shall be construed to affect the rights reserved to zamindârs, taluqdârs and other proprietors of estates with whom a permanent settlement has been concluded, to the exclusive enjoyment of the rent assessed on lands held on an invalid tenure, free of assessment, within the limits of their respective estates and taluqs, and of

which the extent may not exceed one hundred bighás if in Bengal, Behar or Orissa, and fifty bighás if within the Province of Benares.

Second.—The foregoing principles shall be deemed applicable not only to tracts of land such as are described to have been brought into cultivation in the Sundarbans, but to all chars and islands formed since the period of the decennial settlement, and generally to all lands gained by alluvion or dereliction since that period, whether from an introcession of the sea, an alteration in the course of rivers or the gradual accession of soil on their banks. Same principle applicable to chars and alluvion lands;

Third.—The same principle shall likewise be deemed applicable to all lands which, though included at the period of the permanent settlement within the limits of taluqs held by individuals under special pattás from the Collector, such as the patitábádi and jangalburi taluqs in the districts of the Twenty-four Parganas and Jessore, may not have been permanently assessed at the above-mentioned period: also to lands included within particular taluqs.

Provided, however, that in respect to such lands, if in the possession of the original pattá-holder, or his legal representative, the conditions of the pattá in regard to the assessment of the land included within the limits specified in that instrument shall be strictly maintained. Proviso.

Ref. XII of 1871

4. The several rules prescribed in Regulations XIX and XXXVII of 1793, ~~and Regulations XLI[a] and XLII[a] of 1795, Regulations XXXI[a] and XXXVI[a] of 1803, Regulations VIII[a]~~ and XII of 1805, for determining the validity of grants for holding lands exempt from the payment of public revenue, are hereby declared applicable to grants for holding lands under mukarrari or other tenures limiting the demand of Government: Application of existing rules to grants for holding lands under mukarrari or other tenures.

Provided, however, that nothing in this section shall be construed to affect the rules contained in Regulation VIII, 1793, relative to the assessment of lands held under valid grants or leases of the above nature, ~~nor to alter the provisions contained in Regulation I, 1815,[b] by which tenures of that description are declared liable to assessment on the death of the grantee~~. Proviso. Ref. XII of 1871

5.[c] *First.*—Whenever a Collector of revenue or other officer exercising the powers of Collector shall have reason to believe that any lands lying within the sphere of his official control are liable to assessment, either as being held under an invalid tenure free of assessment, or at an inadequate jama, or as being liable to assessment on the principles stated in section 3 of this Regulation, he shall report the circumstances to the Board of Revenue or other Power to direct investigation regarding liability of lands to be assessed.

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[a] ~~Ben. Regs. XLI and XLII of 1795, XXXI and XXXVI of 1803 and VIII of 1805 have been repealed by Act XIX of 1873.~~

[b] ~~Ben. Reg. I of 1815 has been repealed by Act XXIX of 1871.~~

[c] S. 5 has been modified by Ben. Regs. IX of 1825, s. 5, and XIII of 1825, s. 1—*see infra*, pp. 222 and 230, respectively.

authority exercising the powers of that Board, who, should they be of opinion that proper grounds exist for inquiry, shall direct the Collector or other officer aforesaid to enter on an investigation of the case in the manner hereafter mentioned.

Notice to party,

Second.—The Collector, on receiving the authority of the Board of Revenue, shall call the party before him by a notice stating the demand of Government on the lands, and requiring him to attend either in person or by vakil, within the period of one month, and to produce all sanads or other writings in virtue of which he may possess the lands, or under which they may have been, or may be, claimed to be held free of assessment, or at a fixed jama.

or to his agent, if accredited agent reside at sadr station.

Third.—If the persons whose lands it is proposed to assess have an accredited agent at the sadr station, with general powers to act for his principal, the notice to be issued under the preceding clause shall be tendered to such agent, to be communicated by him to his principal, and the agent's acknowledgment to be endorsed upon it shall be accepted as a sufficient service of it, if he be desirous of giving such acknowledgment in preference to the notice being served on the person of his principal by a chaprási or peon of the Collector.

Notice on principal to be served through názir by single peon.

Fourth.—If the person, the revenue of whose lands it is proposed to resume, shall not have an accredited agent at the sadr station of the description above-mentioned, or if such agent shall decline receiving the notice for communication to his constituent, and the defendant be resident within the collectorship, it shall be served on him through the názir of the Collector by a single chaprási or peon, who shall require the acknowledgment of the party to be endorsed upon it, or, if he be absent from his usual place of residence, the acknowledgment of his principal agent, or of any person acting for him during his absence.

Notice how served if party reside in another jurisdiction.

If the party be resident within the jurisdiction of any other Collectorship than that in which the lands proposed to be assessed are situated, the notice shall be transmitted to the Collector of the district in which the party may reside, to be served in the manner above directed.

If the party be neither resident within the collectorship in which the lands in question may be situated, nor in any other collectorship, the notice shall be served upon his agent or representative in charge of the lands.

If acknowledgment be refused, tender of notice sufficient service.

Fifth.—Provided always that, if any party or his agent in charge of his land, on whom a notice may be served in the manner above prescribed, shall refuse to acknowledge the receipt of it when required by the person serving it, the tender of the notice to such party or his agent shall be taken for a sufficient service; such tender to be proved by the evidence of two persons residing on the lands or in the nearest village.

Sixth.—The Collector shall, in the notice summoning the party, warn him that, if he withhold any writings of the nature specified in the second clause of this section within the period prescribed, they will not afterwards be received unless he shall show good and sufficient cause for not producing them and shall assign such cause on his appearing before him. Contents of notice.

6.[a] *First.*—If the holder of such lands to whom a notice may have been issued as directed in the preceding section shall abscond, or is not after diligent search to be found, or shall shut himself up in any house or building, or retire to any place, so that the notice cannot be served upon him, the Collector or other officer exercising the power of Collector, on receiving the názir's return to this effect, shall issue a proclamation, to be affixed in some conspicuous part of his kachahri. If notice cannot be served, proclamation to be issued.

The proclamation shall be written [b] the vernacular of the district [b] ~~in the Persian and Bengal languages in the Provinces of Bengal and Orissa (including Cuttack)[b]; and in the Hindustáni language and Nágari character in Behar, Benares and in the Ceded and Conquered Provinces~~; and it shall contain a copy of the former notice, and a further notification to the party that, if he shall not appear on a day to be fixed (which shall not be less than fifteen days from the time that the proclamation may be fixed up), the Collector will proceed, without further notice, to hold the inquiry *ex parte.*

The Collector or other officer exercising the power of Collector shall likewise order a copy of the proclamation and notice to be fixed up, with all practicable dispatch, on the outer door of the house in which the holder of the lands may have usually dwelt, or in some conspicuous place in the chief village within, or in the neighbourhood of, the lands proposed to be assessed.

Second.—The názir shall return the order with an endorsement stating at what times and places the proclamation may have been fixed up. Názir's return how made.

The return of the názir shall be filed with the Collector's proceedings in the case.

If the party shall not appear at the time limited in the proclamation, or if a party who may have been served with a notice shall not appear within the time therein limited, or if, having appeared, he shall refuse to give answer, the Collector shall proceed to investigate and decide upon the case in the same manner as if the party had appeared, answered and entered into proof. If party does not appear, or refuses to answer, case to be investigated.

7. In cases of land supposed to be liable to assessment under the provisions of section 3 of this Regulation the Collector or other officer exercising the powers of Collector shall institute a full and particular inquiry into the cir- What inquiry to be made.

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[a] S. 6 has been modified by Ben. Reg. IX of 1825, s. 5—see *infra*, p. 222.

[b] ~~Certain words in s. 6, repealed by Act XVI of 1874, s. 1, have here been omitted.~~

[b-b] Substituted by act XII of 1891

cumstances and condition of the land in question at the period of the decennial settlement, and, in cases of alluvion land, into the period of its formation.

Collector with sanction of Board may cause survey or measurement.

8.[a] When an inquiry in regard to land of the nature of that described in the foregoing section shall have been authorized, it shall be competent to the Collector, with the sanction of the Board of Revenue or other authority exercising the powers of that Board, previously obtained, to cause a survey or measurement to be made of all such lands, and of the estate to which such lands may be alleged to belong.

Collector may summon patwáris, and require accounts and examine on oath.

9. It shall likewise be competent to the Collector, in all cases of inquiry held under the provisions of this Regulation, to summon the patwári, gumáshta or other person by whom the accounts relating to the lands proposed to be assessed, or to the estate to which the lands may be alleged to belong, are kept, and to require him to produce all accounts relating to such lands or estate, and to examine him on oath to the truth of such accounts, and on any other matter relating to such accounts, or regarding such lands or estate, in the manner specified in section 22, Regulation XII of 1817.

and may require attendance of person claiming land, with his accounts.

10.[a] It shall be further competent to the Collector in such cases, with the sanction of the Board of Revenue or other authority exercising the powers of that Board, to require the person claiming to be proprietor or farmer of the lands proposed to be assessed, or of the estates to which they are alleged to belong, to attend either in person or by representative, and to produce all the accounts relating to such lands or estate within a reasonable period, not being less than one week.

Notice to such person

11.[a] *First.*—Whenever the Collector or person exercising the powers of Collector shall require the attendance of any proprietor or farmer, or of any patwári or gumáshta or other officer for the purpose stated in the above section, he is to serve such proprietor or other person as aforesaid with a written notice under his official seal and signature, stating the purpose for which his attendance is required, the papers (if any) which he is to bring with him, and the period within which he is to attend.

Second. [*Mode of serving notice.*] *Rep. by Act XII of 1876, s. 1.*

Penalties on patwáris neglecting to produce accounts, falsifying them or giving false evidence.

12. If any patwari, gumáshta or other person by whom the accounts of lands are kept, and who may be summoned by a Collector or Commissioner under the provisions contained in sections 9 and 11 of this Regulation, shall neglect or omit to produce his original accounts on the requisition of the Collector or Commissioner, or to give his evidence regarding them, or shall intentionally and deliberately give a false deposition on oath before the Collector

[a] Ss. 8, 10 and 11 have been modified by Ben. Reg. IX of 1825, s. 5—see *infra*, p. 222.

or Commissioner, when summoned and examined as aforesaid, or shall alter, fabricate, falsify or mutilate the accounts relating to such lands, or to the estate to which such lands are stated to belong, shall be and be held liable to the pains and penalties specified in sections 23, ~~24~~ and 27 of Regulation XII, 1817, according as the provisions of one or other of those sections may be applicable to the offence committed by him.

Lands may be attached, if holders neglect to furnish accounts.

13.[b] *First.*—If the holder of any lands in regard to which the Collector shall have been authorized by the Board of Revenue or other authority exercising the powers of that Board to institute the inquiry described by section 7 of this Regulation shall refuse or neglect to furnish the accounts relating to such lands within the period specified in the Collector's requisition, the Board of Revenue or other authority exercising the powers of that Board shall be competent to direct the lands to be immediately attached, and the rents collected on account of Government, in the same manner as if the lands were the property of Government.

Inquiry in such cases.

In such cases, however, it shall still be the duty of the Collector to make a full inquiry into the title of the holder of the lands, and to transmit his proceedings to the Board, who will decide whether the lands shall be deemed permanently liable to assessment.

Accounts not furnished to Revenue-authorities not afterwards to be received in evidence in suits to contest their decision. Exception.

Second.—Provided further that, if the holder of any lands assessed under the rules of this Regulation shall institute a suit in Court to contest the decision of the Revenue-authorities, and shall produce any accounts or documents besides such as he may have delivered to the Collector, the accounts or documents so produced shall not be received by the Court in evidence, nor shall they have any weight in the decision, any more than if they had never existed, unless he shall show good cause, to the satisfaction of the Court, for not having produced the said accounts or documents, and shall prove that he assigned such cause in answer to the Collector's requisition, or show good cause for not having done so.

Fines for non-attendance of proprietor or agent, or for omission to furnish accounts.

Third.—Provided also that, if any proprietor or farmer shall omit or refuse to attend, or to cause his officer or agent to attend, when duly summoned by the Collector or Commissioner, by the time prescribed in the notice issued by the Collector or Commissioner, or shall omit or refuse to furnish the accounts or documents required, and to show sufficient cause for such omission, the Board of Revenue[c] or other authority exercising the powers of that Board, are authorized and empowerd to impose upon him such daily fine, to be pay-

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[a] ~~S. 23 of Ben. Reg. XII of 1817 has been repealed by Act XII of 1876.~~

[b] S. 13 has been modified by Ben. Reg. IX of 1825, s. 5—see *infra*, p. 222.

[c] For power of Collector to impose a daily fine, see Act XX of 1848, s. 1, *infra*, p. 280.

able daily, until he complies with the Collector's requisition, as they may think adequate to his situation and circumstances in life, reporting, however, the amount for the information of the Governor General in Council.

The fine, when confirmed by Government, is to be levied by the same process as is prescribed for the recovery of arrears of revenue.

Penalties for resistance of process.

14. If any zamindár or other person shall resist, or cause to be resisted, the attachment or measurement of lands which the Board of Revenue or other authority exercising the powers of that Board shall have authorized the Collector or Commissioner to attach or measure under the provisions of this Regulation, or shall resist or cause to be resisted any process duly issued by the Collector or Commissioner to compel a patwári, gumáshta or other officer to produce his accounts, and to give his evidence respecting them under the provisions contained in section 9 of this Regulation, it shall be competent to the Board of Revenue or other authority exercising the powers of that Board, on being satisfied that he is guilty of the charge, to adjudge the zamindár or other person so offending to pay such fine to Government as may appear to it proper, upon a consideration of his situation and circumstances in life, and of the offence which he may have committed, and to levy the fine in the mode prescribed for the recovery of arrears of revenue:

Proviso.

Provided, however, that, if the fine shall exceed five hundred rupees, the Board shall submit a report of the case to the Governor General in Council, and shall not proceed to levy the fine until they shall receive authority from Government for that purpose.

Procedure when parties attend and produce title-deeds.

15.[a] When the party whose lands it may be proposed to assess shall appear in conformity with the notice or summons, and shall deliver up his title-deeds, the Collector shall give a receipt for them, and, after duly examining them, shall deliver to the party a statement of the grounds on which his land may appear liable to assessment, with copies, on plain paper, of all documents on which his opinion may be founded.

The Collector shall then desire the party to deliver a written answer within seven days.

Procedure in respect of documents produced.

16. It shall be the duty of the Collector or other officer exercising the powers of Collector carefully to number, mark, date and sign all documents produced by a zamindár or other person in possession of the lands proposed to be assessed in support of his claim to hold them free of assessment, or as parcel of an estate for which a permanent settlement shall have been concluded, and to insert in his proceedings the title and number of such documents, so that no doubt may exist in regard to their having been exhibited before him;

[a] S. 15 has been modified by Ben. Reg. IX of 1825, s. 5—see *infra*, p 223.

and the Collector shall, before proceeding to judgment, warn the party that no accounts or other documentary evidence of any kind which he shall not produce before him, and for not producing which he may not assign good and sufficient cause, will be received at any future period, either by the Revenue or Judicial Authorities, and shall record his having done so on the face of his proceedings.

Witnesses for and against claim of Government to be examined.

17. On receiving the answer of the party the Collector shall summon any witnesses he may deem necessary to support the claim of Government, with any which the party may desire to have summoned on his behalf, and shall take their depositions in judicial form, and in the presence of the party or his authorized agent.

Examination of documents.

18. The Collector shall carefully examine all documents that may be produced by the party, and shall likewise give the party access to inspect all documents on which he may rely in proof of the liability of the land to assessment.

Collector's authority to summon witnesses and administer oath.

19. *First.*—The Collectors and other officers exercising the powers of Collectors are hereby authorized to summon witnesses and administer oaths, or cause the execution of solemn declarations in lieu thereof, in all cases brought before them under this Regulation.[a]

Second. [*Penalties for perjury applicable to witnesses who affirm.*] *Rep. by Act XII of 1873, s. 1.*

Third. [*Penalties for resistance of process.*] *Rep. by Act XII of 1876, s. 1.*

Procedure on completion of inquiry.

20. Having closed his proceedings, the Collector shall record his opinion in a[a] rúbakári detailing the grounds on which it is founded, and whether the lands appear liable to assessment or otherwise, and shall forward his proceedings to the Board of Revenue or other authority exercising the powers of that Board, in such mode as may be directed by that authority, furnishing the party at the same time with a copy on plain paper of the final rúbakári aforesaid, and reporting his having done so to the Board or other authority as aforesaid.

Procedure of Board on receipt of Collector's proceedings.

21. *First.*—The Board of Revenue or other authority aforesaid, after calling for any further evidence which, on a consideration of the Collector's proceedings, they may deem wanting, shall, on a day to be fixed by a public notice affixed in the office, not being less than six weeks from the date on which the Collector may have furnished the party with a copy of his final rúbakári, and after hearing anything which the party, if in attendance, may

[a] Certain words in ss. 19 and 20, repealed by Act XVI of 1874, s. 1, have here been omitted.

wish to urge in his own behalf, proceed to pass judgment in the case, and shall record their opinion in a[a] rúbakári, delivering a copy thereof to the party on his requisition to that effect.

Final rúbakáris.

Second.—The final rúbakáris which the Collectors and the Boards are by the provisions of this section directed to record shall contain a distinct statement of the subject-matter of the case, the grounds on which the decision may be given, the names of the witnesses whose depositions may have been taken and the title of every exhibit read.

What cases decision of Boards final.

Third.—If the Board of Revenue or other authority aforesaid pronounce against the assessment, the proceedings shall be considered final, except on proof in a Court of Judicature of fraud or collusion in the previous inquiry.

If land declared liable to assessment, Collector to fix assessment.

Fourth.—In the event of the Board's declaring the lands liable to assessment, the Collector shall inform the party or his vakil of the decision of the Board, and shall proceed to ascertain the limits of the land, and shall fix an assessment on the principles of the general Regulations on such information as may be procurable.

When party may be left in possession of land.

22. [b]*First.*—If the party shall, within a fortnight of his receiving intimation of the Board's decision, tender to the Collector responsible security for the payment from that date of the jama which may eventually be fixed on the land, with interest at the rate of twelve per cent., and shall engage to institute a suit in the Court in which the case may be cognizable within ten days, commencing from the date of the deed of security, or (if the Court shall be shut, and shall not be opened until after the expiration of such ten days) within three days, calculating from the day on which it may be opened, to try the justness of the demand, the Collector shall leave the party in possession as before, reporting the circumstance for the information of the Board:

Proviso.

Provided, however, that in such cases the party shall produce all his accounts of collections for the information of the Collector, in estimating the amount of the security to be required.

Procedure of Collector if party do not furnish full security.

Second.—If the party be willing to give security for a portion only of the jama eventually assessable on the land, it shall be competent to him to do so on the conditions above specified.

In this case the Collector shall, under the orders of the Board, either hold the lands khás or farm them for such period as the Board may direct, and shall pay to the party a portion of the collections proportionate to the amount for which he may be willing and able to give responsible security.

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[a] Certain words in s. 21. repealed by Act XVI of 1874, s. 1, have here been omitted.

[b] S. 22 has been modified by Ben. Reg. IX of 1825, ss 5 and 8—see *infra*, pp 222 and 226; also by Ben. Reg. III of 1828, s. 10—see *infra*, p. 248.

Third.—It shall be competent to the Court to direct the Collector to take the security offered by the party, if he shall refuse to do so, and the Court shall be satisfied that it is sufficient; but it shall rest with the Collector, subject to the directions of the Board, to fix the amount for which the surety is to be held bound. Court may determine on sufficiency of security tendered.

Fourth.—The amount shall not, in the first instance, exceed the estimated annual revenue assessable on the lands, or the amount receivable by the party in one year, with interest; but if, at the expiration of one year from the date on which the party may receive intimation of the Board's decision, the suit shall still be pending, it shall be competent to the Collector to require additional security for the same amount. Amount of security how regulated.

Fifth.—In mukarraris the parties giving security, and intending to sue, shall continue to pay the mukarrari jama, and will be required to give security for the remaining revenue which may be eventually demandable from them. Security in case of mukarraris.

23.[a] If the party do not give security, or, having given security, neglect to sue, the Collector shall proceed to the final assessment of the land. Final assessment.

24.[a] *First.*—Persons whose lands may be assessed, either in failure to give security, or to institute a suit within the prescribed time, shall nevertheless be entitled to sue any time within one year from the date of their being informed of the Board's decision; but after the above period shall have elapsed the decision of the Board shall be final and conclusive: Limitation of suits in Civil Courts.

Provided, however, that in cases in which the party may be able to show good and sufficient cause for not having sued within the said period, such as minority or absence, no limitation as to time shall prevail other than that generally prescribed by the existing Regulations in regard to private claims. Proviso.

Second. [*Further proviso.*] *Rep. by Act XVI of 1874, s. 1.*

25. [*Courts in which suits under this Regulation are to be instituted.*] *Rep. by Act XVI of 1874, s. 1.*

26.[b] *First.*[c]—In cases instituted in the Zila Court an appeal shall be received by the Court of Sadr Diwáni Adálat. Appeal from Zila to Sadr Court.

Second.[c]—The Sadr Diwáni Adálat, in all cases of appeal being preferred in conformity with the provisions of this Regulation, shall, together with the decree against which such appeal may be lodged, likewise peruse the final rúbakári filed in the case by the Board of Revenue or other authority exer- Procedure on such appeals.

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[a] Ss. 23 and 24 have been modified and extended by Ben. Reg. III of 1828, s. 10—see *infra*, p. 243.

[b] S. 26 has been modified by Ben. Reg XIV of 1825, s. 6—see *infra*, p. 238.

[c] The portions of cls. (1) and (2) of s. 26, repealed by Act XVI of 1874, s. 1, have been omitted.

cising the powers of that Board; and, if on a consideration of those documents the decision of the Court should appear unjust or erroneous or doubtful, or its proceedings in the case manifestly irregular or imperfect, or if, from the nature of the cause, as stated in the decree or otherwise, it shall appear to them of sufficient importance to merit a further investigation in appeal, they shall admit an appeal.

27. [*Stamped paper and fees.*] *Rep. by Act XVI of 1874, s. 1.*

Validity of farmáns, sanads or grants to be carefully ascertained.

28. *First.*—On the production of any written document purporting to be a farmán of any King of Delhi, or to be a sanad, parwána or other grant of any Wazír, or of any Nawáb, Rájá or other potentate or person formerly exercising authority in any part of the Provinces and territories now subject to the British Government, it shall be the duty of the Revenue and Judicial Authorities before whom such document may be produced to ascertain the validity and authenticity of it, by reference to such offices and records, and by the examination of such living witnesses, as may be likely to lead to the due appreciation thereof; and the said authorities shall not receive such document in evidence merely on the credit of the seal, or other attestations impressed upon it, without some external evidence in corroboration of its authenticity.

Such deeds not to be received unless registered.

Second.—Provided also that no document of the above description which may be produced to any Court or Adálat shall be received, nor any proceedings held thereon, nor any faith given thereto, unless it shall be proved that the said document has been duly registered under the rules and requisitions of Regulations XIX and XXXVII, 1793; XLI[b] and XLII,[b] 1795; VIII,[c] 1800; XXXI[b] and XXXVI,[b] 1803; and VII,[d] 1808; or unless due cause be shown for the non-registry.[e]

Regulation applied to cases in which Collector suspects validity of original tenures of land, subse-

29. ~~Whenever a Collector or other officer exercising the powers of~~ Collector shall have reason to suspect the validity of the original tenure under which any land subsequently commuted for a money-pension of the description noticed in Regulation XXIV,[f] 1803, and Regulation VI,[f] 1817, was held, it shall be competent to him, with the previous sanction of the Board of Revenue or other authority exercising the powers of that Board, to proceed in the in-

[a] So, read "an;" this word "special," repealed by Act XVI of 1874, has here been omitted.

[b] Ben. Regs. XLI and XLII of 1795 and XXXI and XXXVI of 1803 have been repealed by Act XIX of 1873.

[c] Ben. Reg. VIII of 1800 has been repealed (except s. 19) by Act XVI of 1874 and Ben. Act VII of 1876.

[d] Ben. Reg. VII of 1808 has been repealed by Act XXIX of 1871.

[e] As to trial of validity of grants made previous to acquisition of country by British Government, see also Ben. Reg. XIV of 1825, s. 3, *infra*, p. 235.

[f] Ben. Regs. XXIV of 1803 and VI of 1817 have been repealed by Act XVIII of 1871.

[a]-[a] Substituted by Act XII of 1879.

vestigation of the tenure under which such land was held, in the same manner as Collectors are authorized by this Regulation to proceed in regard to the tenure of lands now held free of assessment; and, if the Board shall be of opinion that the tenure was invalid, it shall be competent to them to resume the money-pension granted in consideration thereof, subject to an appeal to the Courts of Judicature in the manner prescribed by this Regulation in cases in which the Board may direct the assessment of land held free of assessment: quently commuted for money-pensions.

Provided, however, that it shall not be competent to the Revenue-authorities to resume any money-pension of the above description, of which the incumbent may have been in the enjoyment, under orders of the Governor ~~General in Council, for a period of twelve years or more.~~ Proviso.

30. [*Proceedings in suits referred to or instituted before Collectors.*] *Rep. by Ben. Act VII of 1862, s. 1.*

31. *First.*—Nothing in the present Regulation shall be considered to affect the right of the proprietors of estates for which a permanent settlement has been concluded to the full benefit of all waste-lands included within the ascertained boundaries of such estates respectively at the period of the decennial settlement, and which have since been or may hereafter be reduced to cultivation. The exclusive advantages resulting from the improvement of all such lands were guaranteed to the proprietors by the conditions of that settlement, and it being left to the Courts of Judicature to decide on all contested cases whether lands assessed under the provisions of this Regulation were included at the period of the decennial settlement within the limits of estates for which a settlement has been concluded in perpetuity, and to reverse the decision of the Revenue-authorities in any case in which it shall appear that lands which actually formed, at the period in question, a component part of such an estate, have been unjustly subjected to assessment under the provisions of this Regulation, the zamindárs and other proprietors of land will be enabled, by an application to the Courts, to obtain immediate redress in any case in which the Revenue-authorities shall violate or encroach on the rights secured to them by the permanent settlement. Regulation not to affect right of proprietors to waste-land guaranteed at permanent settlement.

Second.—It is further hereby declared and enacted that all claims by the Revenue-authorities on behalf of Government to additional revenue from lands which were at the period of the decennial settlement included within the limits of estates for which a permanent settlement has been concluded, whether on the plea of error or fraud, or on any pretext whatever, saving, of course, the case of lands expressly excluded from the operation of the settlement, such as lákhiráj and thánadári lands, shall be and be considered wholly illegal and invalid. Nor to warrant claim to additional revenue from lands permanently assessed on plea of error or fraud. Exception.

REGULATION VIII OF 1819.[a]

Passed on the 3rd September, 1819.

A Regulation to declare the validity of certain tenures, and to define the relative rights of zamindárs and patni taluqdárs, also to establish a process for the sale of such taluqs in satisfaction of the zamindár's demand of rent, ~~*and to explain and modify other parts of the system established for the collection of rents generally throughout Bengal.*~~

Ref. x 11 of 1959

Preamble.

1. By the rules of the perpetual settlement, proprietors of estates paying revenue to Government, that is, the individuals answerable to Government for the revenue then assessed on the different maháls, were declared to be entitled to make any arrangements for the leasing of their lands in taluq or otherwise that they might deem most conducive to their interests.

By the rules of Regulation XLIV, 1793,[b] however, all such arrangements were subjected to two limitations; first, that the jama or rent should not be fixed for a period exceeding ten years; and, secondly, that in case of a sale for Government arrears such leases or arrangements should stand cancelled from the day of sale.

The provisions of section 2, Regulation XLIV, 1793,[b] by which the period of all fixed engagements for rent was limited to ten years, have been rescinded by section 2, Regulation V, 1812; and in Regulation XVIII of the same year it is more distinctly declared that zamindárs are at liberty to grant taluqs or other leases of their lands, fixing the rent in perpetuity at their discretion, subject, however, to the liability of being dissolved on sale of the grantor's estate for arrears of the Government revenue, in the same manner as heretofore.

In practice the grant of taluqs and other leases at a rent fixed in perpetuity had been common with the zamindárs of Bengal for some time before the passing of the two Regulations last mentioned; but, notwithstanding the abrogation of the rule which declared such arrangements null and void, and the abandonment of all intention or desire to have it enforced as a security to the Government revenue in the manner originally contemplated, it was omitted to declare in the rules of Regulations V and XVIII of 1812, or in any other Regulations, whether tenures at the time in existence and held under

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[a] This Regulation has been declared in force by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2, in the Sonthal Pergunnahs, and under s. 3 of the Scheduled Districts Act, 1874, in the district of Manbhoom and Pergunnah Dhalbhoom—see *infra*, p. 652.

Ben. Reg. XLIV of 1793 has been repealed by Act XXIX of 1871.

covenants or engagements entered into by the parties in violation of the rule of section 2, Regulation XLIV, 1793,[a] should, if called in question, be deemed invalid and void as heretofore.

This point it has been deemed necessary to set at rest by a general declaration of the validity of any tenures that may be now in existence, notwithstanding that they may have been granted at a rent fixed in perpetuity, or for a longer term than ten years, while the rule fixing this limitation to the term of all such engagements, and declaring null and void any granted in contravention thereto, was in force.

Furthermore, in the exercise of the privilege thus conceded to zamindárs under direct engagements with Government, there has been created a tenure which had its origin on the estates of the Rájá of Burdwan, but has since been extended to other zamindáris; the character of which tenure is that it is a taluq created by the zamindár, to be held at a rent fixed in perpetuity by the lessee and his heirs for ever; the tenant is called upon to furnish collateral security for the rent, and for his conduct generally, or he is excused from this obligation at the zamindár's discretion; but even if the original tenant be excused, still, in case of sale for arrears, or other operation leading to the introduction of another tenant, such new incumbent has always in practice been liable to be so called upon at the option of the zamindár.

By the terms also of the engagements interchanged it is amongst other stipulations provided that, in case of an arrear occurring, the tenure may be brought to sale by the zamindár, and, if the sale do not yield a sufficient amount to make good the balance of rent at the time due, the remaining property of the defaulter shall be further answerable for the demand.

These tenures have usually been denominated patni taluqs, and it has been a common practice of the holders of them to underlet on precisely similar terms to other persons, who on taking such leases went by the name of darpatni taluqdárs: these again sometimes similarly underlet to sepatnidars; and the conditions of all the title-deeds vary in nothing material from the original engagements executed by the first holder.

In these engagements, however, it is not stipulated whether the sale thus reserved to himself by the grantor is for his own benefit, or for that of the tenant; that is, whether, in case the proceeds of sale should exceed the zamindár's demand of rent, the tenant would be entitled to such excess; neither is the manner of sale specified, nor do the usages of the country nor the Regulations of Government afford any distinct rules by the application of which to

[a] Ben. Reg. XLIV of 1793 has been repealed by Act XXIX of 1871.

the specific cases the defects above alluded to could be supplied or the points of doubt and difficulty involved in the omission be brought to determination in a consistent and uniform manner.

The tenures in question have extended through several zilas of Bengal, and the mischiefs which have arisen from the want of a consistent rule of action for the guidance of the Courts of Civil Judicature in regard to them have been productive of such confusion as to demand the interference of the legislature: it has accordingly been deemed necessary to regulate and define the nature of the property given and acquired on the creation of a patni taluq as above described, also to declare the legality of the practice of underletting in the manner in which it has been exercised by patnidárs and others, establishing at the same time such provisions as have appeared calculated to protect the under-lessee from any collusion of his immediate superior with the zamindár or other, for his ruin, as well as to secure the just rights of the zamindár on the sale of any tenure under the stipulations of the original engagements entered into with him.

It has further been deemed indispensable to fix the process by which the said tenures are to be brought to sale and the form and manner of conducting such sale;

and whereas the estates of zamindárs under engagements with Government are liable to be brought to sale at any time for an arrear in the revenue payable by monthly kists to Government, it has seemed just to allow any zamindár who may have granted tenures with a stipulation of the right to sell for arrears the opportunity of availing himself of this means of realizing his dues in the middle of the year, as well as at the close, instead of only at the end of the Bengal year, as heretofore allowed by the Regulations in force; it has further been deemed equitable to extend this rule to all cases in which the right of sale may have been reserved, even though, in conformity with the Regulations heretofore in force, the stipulation for sale contained in the engagements interchanged may have restricted such sale to the case of a demand of rent remaining unpaid at the close of the Bengal year.

~~It has been likewise deemed advisable to explain and modify some of the~~ existing rules for the collection of rents, with a view to render them more efficacious than at present, as well as to provide against sundry means of ~~evasion now resorted to by defaulters~~.

The following rules have accordingly been enacted by His Excellency the Most Noble, the Governor General in Council, to take effect from the date of their promulgation throughout the several districts of the Province of Bengal, including Midnapore

2. It is hereby declared that any leases or engagements for the fixing of rent now in existence that may have been granted or concluded for a term of years or in perpetuity by a proprietor under engagements with Government, or other person competent to grant the same, shall be deemed good and valid tenures, according to the terms of the covenants or engagements interchanged, notwithstanding that the same may have been executed before the passing of Regulation V, 1812, and while the rule of section 2, Regulation XLIV, 1793,[a] which limited the period for which it was lawful to grant such engagements to ten years, and declared all that might be entered into for a longer term to be null and void, was in full force and effect; and notwithstanding that the stipulations of the said leases may be in violation of the rule in question:

Leases fixing rent in perpetuity or for more than ten years, valid, though executed while section 2, Regulation XLIV, 1793, was in force.

Provided, however, that nothing herein contained shall be held to exempt any tenures held under engagements from proprietors of estates paying revenue to Government from the liability to be cancelled on sale of the said estates for arrears of the said revenue,[b] unless especially exempted from such liability by the rule in question, or by any other specific rule of the Regulations in force.

3. *First.*—The tenures known by the name of patni taluqs, as prescribed in the preamble to this Regulation, shall be deemed to be valid tenures in perpetuity, according to the terms of the engagements under which they are held. They are heritable by their conditions; and it is hereby further declared that they are capable of being transferred by sale, gift or otherwise, at the discretion of the holder, as well as answerable for his personal debts, and subject to the process of the Courts of Judicature, in the same manner as other real property.

Patni tenures declared valid, transferable and answerable for debt.

Second.—Patni taluqdárs are hereby declared to possess the right of letting out the lands composing their taluqs in any manner they may deem most conducive to their interest, and any engagements so entered into by such taluqdárs with others shall be legal and binding between the parties to the same, their heirs and assignees:

Patnidárs' right of underletting.

Provided, however, that no such engagements shall operate to the prejudice of the right of the zamindár to hold the superior tenure answerable for any arrear of his rent, in the state in which he granted it, and free of all incumbrance resulting from the act of his tenant.

Third.—In case of an arrear occurring upon any tenure of the description

patni tenure

[a] Ben. Reg. XLIV of 1793 has been repealed by Act XXIX of 1871.
[b] Certain words and figures in s. 2, repealed by Act XVI of 1874, s. 1, have here been omitted.

not voidable for arrears.

alluded to in the first clause of this section, it shall not be liable to be cancelled for the same;[a] but the tenure shall be brought to sale by public auction, and the holder of the tenure will be entitled to any excess in the proceeds of such sale beyond the amount of the arrear of rent due, subject, however, to the provisions contained in section 17 of this Regulation.

Inferior tenures under similar title-deeds confer similar interest to that provided for patni taluqs in section 3.

4. If the holder of a patni taluq shall have underlet in such manner as to have conveyed a similar interest to that enjoyed by himself, as explained in the preamble to this Regulation, the holder of such a tenure shall be deemed to have acquired all the rights and immunities declared in the preceding section to attach to patni taluqs, in so far as concerns the grantor of such under-tenure.

The same construction shall also hold in the case of patni taluqs of the third or fourth degree.

Zamindár not to refuse to give effect to transfer;

5. The right of alienation having been declared to vest in the holder of a patni-taluq, it shall not be competent to the zamindár or other superior to refuse to register, and otherwise to give effect to such alienations, by discharging the party transferring his interest from personal responsibility, and by accepting the engagements of the transferee.

but may demand fee,

In conformity, however, with established usage, the zamindár or other superior shall be entitled to exact a fee upon every such alienation; and the rate of the said fee is hereby fixed at two per cent. on the jama or annual rent of the interest transferred, until the same shall amount to one hundred rupees, which sum shall be the maximum of any fee to be exacted on this account.

and security.

The zamindár shall also be entitled to demand substantial security from the transferee or purchaser, to the amount of half the jama or yearly rent payable to him from the tenure transferred; the condition of furnishing such security on requisition being understood to be one of the original liabilities of the tenure.

The above rules shall apply equally to the case of a sale made in execution of a decree or judgment of Court, as to all other alienations, but it shall not apply to the case of sale for an arrear in the rent due to the zamindár or other superior, under the rules hereinafter contained.

The purchaser at such a sale shall be entitled to have his name registered, and to obtain possession without fee, though of course liable to be called on to give security under the conditions of the tenure purchased.

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[a] Certain words and figures in s. 3, cl. (3), repealed by Act XVI of 1874, s. 1, have here been omitted.

6. It shall be competent to the zamindár or other superior to refuse the registry of any transfer until the fee above stipulated be paid, and until substantial security to the amount specified be tendered and accepted: Zamindár may refuse sanction to transfer, till fee and security tendered.

Provided, however, that if the security tendered by any purchaser or transferee should not be appoved by the zamindár, and the party tendering it shall be dissatisfied with such rejection, he shall be competent to appeal therefrom by petition or common motion in the Civil Court of the district, which authority, if satisfied of the sufficiency of the security tendered, shall issue an injunction on the zamindár to accept it and give effect to the transfer without delay.

It is hereby provided that the rules of this and of the preceding section shall not be held to apply to transfers of any fractional portion of a patni-taluq, nor to any alienation other than of the entire interest; for no apportionment of the zamindár's reserved rent can be allowed to stand good unless made under his special sanction.

7. In case of the sale of a patni tenure in execution of a judgment of Court, if the purchaser do not, within the period of one month from the sale, conform to the rules of section 5 of this Regulation, in order to obtain the transfer of his tenure by the superior to whom the rent fixed upon it is payable, the zamindár or other superior shall be entitled, of his own authority, to send a sazáwal to attach and hold possession of the tenure until the forms prescribed be observed. Upon public sale, if security not tendered within one month, zamindár may attach.

In case also of the sale of a patni tenure for arrears of the rent due upon it, under the rules of this Regulation, if security be required by the zamindár and the purchaser fail to furnish the same within one month of the date of sale, the zamindár shall similarly be entitled to send a sazáwal to attach and hold possession of the interest which may have passed on the sale, to the exclusion of the purchaser, until the prescribed security be given.

Attachments made under this section shall be regarded as trusts for the benefit and at the risk of the purchasers: consequently, after deducting the rent due and the expense of attaching, any surplus that may be yielded by the collections shall be held in deposit for such purchaser: but, if the collections for the time fall short of the rent, the tenure and person of the proprietor shall be liable in the same manner as if no attachment had been made, and the accounts produced by the zamindár or other superior making the attachment shall be received as *primâ facie* evidence to warrant process for an arrear so accruing. Attachment to have effect of trust.

Zamindárs allowed sales of tenures, in which right to sell for arrears is reserved.

8. *First.*[a]—Zamindárs, that is, proprietors under direct engagements with the Government, shall be entitled to apply in the manner following for periodical sales of any tenures upon which the right of selling or bringing to sale for an arrear of rent may have been specially reserved by stipulation in the engagements interchanged on the creation of the tenure.

The exercise of this power shall not be confined to cases in which the stipulation for sale may have been unrestricted in regard to time, but shall apply equally to tenures held under engagements stipulating merely for a sale at the end of the year, in conformity with the practice heretofore allowed by the Regulations in force.

First sale to be applied for on first of Baisákh.

Second.—On the first day of Baisákh, that is, at the commencement of the following year from which the rent is due, the zamindár shall present a petition to the Collector, containing a specification of any balances that may be due to him on account of the expired year, from all or any taluqdárs or other holders of an interest of the nature described in the preceding clause of this section.

The same shall then be stuck up in some conspicuous part of the kachahri, with a notice that, if the amount claimed be not paid before the first of Jeth following, the tenures of the defaulters will on that day be sold by public sale in liquidation.

Should, however, the first of Jeth fall on a Sunday or holiday, the next subsequent day, not a holiday, shall be selected instead; a similar notice shall be stuck up at the sadr kachahri of the zamindár himself, and a copy or extract of such part of the notice as may apply to the individual case shall be by him sent to be similarly published at the kachahri or at the principal town or village upon the land of the defaulter.

The zamindár shall be exclusively answerable for the observance of the forms above prescribed, and the notice required to be sent into the mufassal shall be served by a single peon, who shall bring back the receipt of the defaulter, or of his manager, for the same, or, in the event of inability to procure this, the signatures of three substantial persons residing in the neighbourhood, in attestation of the notice having been brought and published on the spot.

If it shall appear from the tenor of the receipt or attestation in question that the notice has been published at any time previous to the fifteenth of the

[a] For modification of cl. (1) of s. 8 and extension of the whole section to other sales for rent, see Ben. Reg. I of 1828, s. 2, *infra*, p. 173 as to who shall conduct the sale, see Ben. Act VIII of 1835, s. 3.

[b] Cl. (2) of s. 8 has been modified by Act XXXIII of 1850, s. 1, see *infra*, p. 285.

[c] Certain words in cl. (2) of s. 8, repealed by Act XVI of 1874, s. 1, have here been omitted.

month of Baisákh, it shall be a sufficient warrant for the sale to proceed upon the day appointed.

In case the people of the village should object or refuse to sign their names in attestation, the peon shall go to the kachahri of the nearest munsif, or if there should be no munsif, to the nearest thánú, and there make voluntary oath of the same having been duly published; certificate to which effect shall be signed and sealed by the said officers and delivered to the peon.

Third.—On the first day of Kártik, in the middle of the year, the zamindár shall be at liberty to present a similar petition, with a statement of any balances that may be due on account of the rent of the current year, up to the end of the month of Asin, and to cause similar publication to be made of a sale of the tenures of defaulters, to take place on the first of Aghan, unless the whole of the advertised balance shall be paid before the date in question, or so much of it as shall reduce the arrear, including any intermediate demand for the month of Kártik, to less than one-fourth or a four-anna proportion of the total demand of the zamindár, according to the kistbandi, calculated from the commencement of the year to the last day of Kártik. Mid-year sale to be applied for on first of Kártik.

9.] All sales of saleable tenures applied for under the rules of this Regulation shall be made in public kachahri[b]; the land shall be sold to the highest bidder, and every one, not the actual defaulter, shall be free to bid, not excepting the person in satisfaction of whose demand the sale may be made, nor the under-tenants of the defaulter; fifteen per cent. of the purchase-money shall be paid immediately the lot is knocked down, and the officer conducting the sale shall be competent to refuse to accept a bid, or to knock down a lot to any bidder, unless he has assurance to his satisfaction that the amount required to be deposited is in hand for the purpose, or will be produced within two hours. Sales how conducted.

If the fifteen per cent. be not paid in cash, or in notes of the Bank of Bengal, within two hours of the sale, or an equivalent amount in Government securities be not lodged, the lot shall be resold on the same day, and, if the remainder of the purchase-money be not paid by noon of the eighth day, notice shall be given of resale on the following day, that is, on the ninth from the first sale, by proclaiming the same by beat of drum through the bázár of the sadr station of the zila, after which the lot shall be resold at the appointed time at the risk of the first purchaser, who shall forfeit the advance of fifteen per cent. already made, and be further answerable for any sum in

[b] So much of s. 9 as provides that the deposit, if forfeited, shall be regarded as part of the proceeds of the sale has been repealed by Act XXV of 1850, s. 1. For extension of this section to other sales for rent, see Ben. Reg. I of 1820, s. 2 (3) *infra*, p. 174.

[1] Certain words in s. 9, repealed by Act XVI of 1874, s. 1, have here been omitted.

which the proceeds of the second sale may fall short of the antecedent one; such deficiency to be levied by the process for the execution of decrees of the Civil Courts.

Forms to be observed in selling.

10. At the time of the sale the notice previously stuck up in the kachahri shall be taken down, and the lots be called up successively in the order in which they may be found in that notice.

A person shall attend on the part of the zamindár, with a particular statement of the payments made up to the day of sale, on account of the balance of each advertised lot, together with the receipt for, or certificate of, the notice directed to be published in the mufassal, nor shall any lot be put up to sale until the statement produced shall have been inspected, and the existence of a balance for the year ascertained therefrom, nor until the receipt for the notice shall have been read; the observance of which forms shall be recorded in a separate rubákári to be held upon each lot sold.

If the sale be of the description provided for in the third clause of section 8 of this Regulation, the kistbandi of the defaulter shall likewise be produced, in order that it may be seen that the balance remaining unpaid exceeds a four-anna proportion of the demand up to the date of sale; nor shall the sale take place unless this be ascertained.

The zamindár shall be exclusively responsible for the correctness and authenticity of the papers to be thus exhibited, nor shall the public officer making the sale be answerable in any respect, except for its fairness and publicity, and for the observance of the rules prescribed for his guidance in this Regulation.

Tenure to be sold free of incumbrance by act of defaulter.

11.[a] *First.*—It is hereby declared that any taluq or saleable tenure that may be disposed of at a public sale, under the rules of this Regulation, for arrears of rent due on account of it, is sold free of all incumbrances that may have accrued upon it by act of the defaulting proprietor, his representatives or assignees, unless the right of making such incumbrances shall have been expressly vested in the holder by a stipulation to that effect in the written engagements under which the said taluq may have been held.

No transfer by sale, gift or otherwise, no mortgage or other limited assignment, shall be permitted to bar the indefeasible right of the zamindár to hold the tenure of his creation answerable, in the state in which he created it, for the rent, which is in fact his reserved property in the tenure, except the transfer or assignment should have been made with a condition to that effect, under express authority obtained from such zamindár.

[a] For extension of s 11 to other sales for rent, see Ben. Reg I of 1820, s. 2 (3) *infra*, p. 174.

Second.—In like manner, on sale of a taluq for arrears, all leases originating with the holder of the former tenure, if creative of a middle interest between the resident cultivators and the late proprietor, must be considered to be cancelled, except the authority to grant them should have been specially transferred; the possessors of such interests must consequently lose the right to hold possession of the land and to collect the rents of the raiyats; this having been enjoyed merely in consequence of the defaulter's assignment of a certain portion of his own interest, the whole of which was liable for the rent. No under-lease to stand after sale.

Third.—Provided, nevertheless, that nothing herein contained shall be construed to entitle the purchaser of a taluq or other saleable tenure intermediate between the zamindár and actual cultivators to eject a khúdkásht raiyat or resident and hereditary cultivator, nor to cancel *bond fide* engagements made with such tenants by the late incumbent or his representative, except it be proved in regular suit, to be brought by such purchaser, for the adjustment of his rent, that a higher rate would have been demandable at the time such engagements were contracted by his predecessor. Exception in favour of *bond fide* engagements with raiyats.

12. The rules of the preceding section, being declaratory of the principle to be observed on all occasions wherein saleable tenures are made responsible for the zamindár's reserved rent, will equally apply to the case of taluqs heretofore sold, as to those that may be sold henceforward, if the sale shall have been fair, and the process observed in conducting it shall have been that recognized and in use in the district at the time of selling. Above rule to take effect retrospectively.

Nothing, however, herein contained shall operate to the prejudice of any agreement, express or implied, now subsisting between the purchaser of a taluq and the lessees of his predecessor. Proviso.

Neither shall the rule for the fall of under-tenures be considered to apply to any private transfer by a taluqdár of his own interest, nor to a public sale in execution of a decree, nor to the case of a relinquishment by the taluqdár in favour of the zamindár, nor to any act originating with the former holder, other than default as aforesaid: all such operations involve only a transfer of the tenure in the state in which it may be held at the time, and the new incumbent succeeds to no more than the reserved rights of the former tenant, such as they may be, and is of course subject to any restriction put upon the tenure by his act. Rule not to apply to private transfers.

13.[a] *First.*—With reference to the injury that may be brought upon the holder of a taluq of the second degree by the operation of the preceding rules, in case the proprietor of the superior tenure purposely withholds the rent due Reason for allowing under-tenants means of staying sale.

[a] For extension of s. 13 to other sales for rent, see Ben. Reg. I of 1820, s. 2 (3) *infra*, p. 174.

from himself to the zamindár, after having realized his own dues from the inferior tenantry, it is deemed necessary to allow such taluqdárs the means of saving their tenures from the ruin that must attend such a sale; and the following rules have accordingly been enacted for this purpose:

How under-tenants may stay sale.

Second.—Whenever the tenure of a taluqdár of the first degree may be advertised for sale in the manner required by the second and third clauses of section 8 of this Regulation, for arrears of rent due to the zamindár, the taluqdárs of the second degree, or any number of them, shall be entitled to stay the final sale, by paying into Court the amount of balance that may be declared due by the person attending on the part of the zamindár on the day appointed for sale; in like manner they shall be entitled to lodge money antecedently, for the purpose of eventually answering any demand that may remain due on the day fixed for the sale, and, should the amount lodged be sufficient, the sale shall not proceed, but, after making good to the zamindár the amount of his demand, any excess shall be paid back to the person or persons who may have lodged it.

Procedure in case of amount lodged being rent due from under-tenant;

Third.—If the amount so lodged shall be rent due by the inferior taluqdár to the holder of the advertised tenure, the same shall be stated at the time of making the deposit, and the amount shall be carried to the account of the tenant or tenants lodging it, and be deducted from any claim of rent that may at the time be pending, or be thereafter brought forward against him or them by the proprietor of the advertised tenure, on account of the year or months for which the notice of sale may have been published.

and in case of amount lodged being advance from private funds.

Fourth.—If the person or persons making such a deposit, in order to stay the sale of the superior tenure, shall have already paid the whole of the rent due from himself or themselves, so that the amount lodged is an advance from private funds, and not a disbursement on account of the said rent, such deposit shall not be carried to credit in, or set against, future demands for rent, but shall be considered as a loan made to the proprietor of the tenure preserved from sale by such means, and the taluq so preserved shall be the security to the person or persons making the advance, who shall be considered to have a lien thereupon, in the same manner as if the loan had been made upon mortgage; and he or they shall be entitled, on applying for the same, to obtain immediate possession of the tenure of the defaulter, in order to recover the amount so advanced from any profits belonging thereto.

If the defaulter shall desire to recover his tenure from the hands of the person or persons who, by making the advance, may have acquired such an interest therein, and entered on possession in consequence, he shall not be entitled to do so, except upon repayment of the entire sum advanced, with interest at the rate of twelve per cent. per annum up to the date of possession

having been given as above, or upon exhibiting proof, in a regular suit to be instituted for the purpose, that the full amount so advanced, with interest, has been realised from the usufruct of the tenure.

Sale not to be stayed unless arrear claimed be lodged.

14. *First.*—Should the balance claimed by a zamindár on account of the rent of any under-tenure remain unpaid upon the day fixed for the sale of the tenure, the sale shall be made without reserve, in the manner provided for in sections 9 and 10 of this Regulation; nor shall it be stayed or postponed on any account, unless the amount of the demand be lodged.

But suit to lie for its reversal.

It shall, however, be competent to any party desirous of contesting the right of the zamindár to make the sale, whether on the ground of there having been no balance due, or on any other ground, to sue the zamindár for the reversal of the same, and, upon establishing a sufficient plea, to obtain a decree with full costs and damages.

The purchaser shall be made a party in such suits, and, upon decree passing for reversal of the sale, the Court shall be careful to indemnify him against all loss, at the charge of the zamindár or person at whose suit the sale may have been made.

Defaulter may apply for summary investigation.

Second.—In cases also in which a taluqdár may contest the zamindár's demand of any arrear, as specified in the notice advertised, such taluqdár shall be competent to apply for a summary investigation at any time within the period of notice; the zamindár shall then be called upon to furnish his kabúliyat and other proofs at the shortest convenient notice, in order that the award may, if possible, be made before the day appointed for sale.

Sale not to be stayed unless amount claimed be deposited.

Such award, if so made, will of course regulate the ulterior process; but, if the case be still pending, the lot shall be called up in its turn, notwithstanding the suit; and, if the zamindár or his agent in attendance insist on the demand, the sale shall be made on his responsibility, nor shall it be stayed, or the summary suit be allowed to proceed, unless the amount claimed be lodged in cash, or in Government securities, or in notes of the Bank of Bengal, by the taluqdár contesting the demand; and, if such deposit be not made, the alleged defaulter will have no remedy but by a regular action for damages and for a reversal of the sale.

Delivery of possession to purchaser.

15.[a] *First.*—So soon as the entire amount of the purchase-money shall have been paid in by the purchaser at any sale made under this Regulation, such purchaser shall receive from the officers conducting the sale a certificate of such payment.

The purchaser shall then proceed with the certificate in question to procure

[a] For extension of s. 15 to other sales for rent, see Ben. Reg. I of 1820, s. 2 (3) *infra*, p. 174.

a transfer to his name in the kachahri of the zamindár, and upon furnishing security, if required, to the extent of half the jama or annual rent, he shall receive the usual "amaldastak" or order for possession, together with the notice to the raiyats and others to attend and pay their rents henceforward to him.

The zamindár shall also be bound to furnish access to any papers connected with the tenure purchased that may be forthcoming in his kachahri; and should he in any manner delay the transfer in his office, or refuse to give the orders for possession, notwithstanding that good and substantial security shall have been furnished or tendered on requisition, the new purchaser shall be entitled to apply direct to the Court, and he shall receive the orders for possession, and shall be put in possession, of the lands by means of the názir, in the same manner as possession is obtained under a decree of Court:

Provided, however, that, if the delay be on account of the zamindár's contesting the sufficiency of the security tendered, the rule contained in section 6 of this Regulation shall be observed.

Procedure in case of opposition to purchaser.

Second.—When the new purchaser shall proceed to take possession of the lands of his purchase, if the late incumbent himself, or the holders of tenures or assignments derived from the late incumbent, and intermediate between him and the actual cultivators, shall attempt to offer opposition, or to interfere with the collections of the new purchaser, from the lands composing his purchase, the latter shall be at liberty to apply immediately to the Civil Court for the aid of the public officers in obtaining possession of his just rights.

A proclamation shall then issue under the seal of the Court and signature of the Judge, declaring that the new incumbent having, by purchase at a sale for arrears of rent due to the zamindár, acquired the entire rights and privileges attaching to the tenure of the late taluqdár, in the state in which it was originally derived by him from the zamindár, he alone will be recognized as entitled to make the zamindári collections in the mufassal, and no payments made to any other individual will on any account be credited to the raiyats or others in any[a] suit for rent[a] or on any other occasion whatever when the same may be pleaded.

Procedure in case of continued opposition.

Third.—Should the late incumbent or his late under-tenants continue to oppose the entry of the new purchaser, notwithstanding the issuing of such a proclamation, or should there be reason to apprehend a breach of the peace on the part of any one, the aid of the police-officers and of all other public officers who may be at hand and capable of affording assistance shall be given to the new purchaser, on his presenting a written application for the same; and, in

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[a] Certain words in cl. (2) of s. 15, repealed by Act XVI of 1874, s. 1, have here been omitted.

[b] as to substitution of the Collector for the Judge, see note on page 164, *Supra*

the event of any affray or breach of the peace occurring, the entire responsibility shall rest with the party opposing the lawful attempt of the purchaser to assume his rights.

16. [*Sale of under-tenures for arrears.*] *Rep. by Ben. Act VIII of 1865, s. 2.*

17.[a] *First.*—The following rules have been enacted for the disposal of the proceeds of any sale made under the rules of this Regulation :— Disposal of proceeds of sales.

Second.—One per cent. shall first be deducted from the nett proceeds realized, and shall be carried to the account of Government, for the purpose of meeting the expense of any extra establishments which it may be necessary to maintain for carrying into effect the provisions of this Regulation. Deduction on account of Government.

Third.—The balance on account of which the sale may have been made shall next be made good in full (with interest and all charges incurred in bringing the taluq to sale) to the zamindár or other person to whom the same may be due : Payment to zamindárs.

Provided, however, that no former balances, beyond those of the current year (or of that immediately expired, if the sale be at the commencement of the following year), shall be included in the demand to be thus satisfied. Such antecedent balances, if the zamindár shall have omitted to avail himself of the process within his reach for having them satisfied at the time, will have become in fact mere personal debts of the individual taluqdár, and must be recovered in the same way as other debts by a regular suit in the Court.

Fourth.—Any excess that may remain after satisfying the demand of the zamindár, in the manner above described, shall be forthwith sent by the officer conducting the sale to the treasury of the Collector or Assistant Collector of the district, to be there held in deposit to answer the claims of the taluqdárs of the second degree, or of others who, by assignment of the defaulter, may be at the time in possession of a valuable interest on the land composing the taluq sold, or on any part of it. Disposal of remainder.

Fifth.—It shall be competent to any one conceiving himself to possess such an interest to bring forward his claim to the price he may have paid for the same, or for a just compensation for the loss sustained by him in consequence of the sale, by instituting a regular suit at any time within two months from the date of sale. Under-tenants free to prosecute for price of their interest or compensation.

If the Court shall, on investigation, consider the plaintiff's claim to be an equitable one, the Court will award to the claimant either the price he may have originally paid, or the value of the interest at the time of sale, or any

[a] For extension of s. 17 to other sales for rent, see Ben. Reg. I of 1820, s. 2 (3) *infra*, p. 174.

other amount that may be deemed just and equitable under all the circumstances.

If there be more claimants than one, payment shall not be made from the deposit until the whole of the claims be settled; and, in case the value assessed upon the whole should exceed the amount in deposit, such amount shall be divided proportionately and the remainder stand as a personal debt against the defaulter, to be realized from him by the usual process for the execution of decrees.

Suit not to lie if under-tenant be himself in arrear at time of sale.

Sixth.—Provided, however, that no taluqdár of the second degree or other possessor of an assigned interest upon the land of the tenure sold, who may be holding under a stipulation for the payment of an annual amount in the way of rent, shall be entitled to recover compensation for the loss of such tenure or assignment upon its becoming cancelled by sale of the superior taluq, except after exhibiting proof that the whole amount of the rent demandable from himself has been paid or lodged for the purpose prior to the date of sale.

When defaulter to receive excess unclaimed.

Seventh.—Should no claims upon the purchase-money of a taluq sold as above be brought forward by any under-tenants or assignees within the period of two months from the date of sale, or should the amount claimed by those who may have sued not equal the entire deposit, the defaulter whose tenure may have been sold shall be at liberty to petition the Court for the amount so held in deposit, or for the excess thereof, as the case may be, and he shall receive a certificate under the seal of the Court, of there being no claims to afford ground of detention for the whole or any part of the deposit; and, upon exhibiting such certificate to the Collector, the amount set free thereby shall be paid to his receipt.

In the same manner, upon executing a decree passed in favour of any under-tenants or assignees, they shall receive certificates under the seal of the Court, declaring the amount adjudged to them out of the deposit; and upon exhibiting these certificates the amount shall be paid severally to their receipts by the Collector.

Substitution of Government securities for cash in deposit.

Eighth.—It shall be competent to any party interested in a deposit to withdraw the whole or any part thereof on substituting Government securities, bearing interest, in lieu of the money so held in deposit; such securities to be taken at the rate of discount or premium of the day, as shown by the Government Gazette last received.

18, 19.—[*Rules regarding attachment of land of defaulter; summary process against person of defaulter.*] *Rep. by Act X of 1859, s. 1.*

REGULATION I OF 1820.[a]

Passed on the 11th January, 1820.

A Regulation for providing that all sales of certain taluqs made answerable by sale for arrears of the zamindar's rent shall be conducted in the mode prescribed by Regulation VIII, 1819, for the sales therein described.

Preamble.

1. Whereas it has been omitted to provide in the rules of Regulation VIII, 1819, whether, in case the proprietor of an estate paying revenue to Government should desire to bring to sale a saleable tenure of the nature defined in clause first, section 8, of that Regulation, for the realization of arrears of rent due thereupon, by any legal process other than that prescribed by the second and third clauses of the said section, such sale should be made in the public manner provided for the periodical sales therein described;

and whereas it is consonant with justice, and was intended by the said Regulation, that, in every case of the sale of such tenures for arrears of the zamindár's rent, the sale should be public, for the security of the interests of the owner of the tenure sold, which object can in no manner be duly secured except the sales to be so made be conducted by an officer of Government in the same manner as the periodical sales provided for by section 8 of the said Regulation;

the following additional rule has accordingly been passed by the Governor General in Council, to take effect from the date of its promulgation, within the several districts of Bengal, including Midnapore:—

Rules of Reg. VIII, 1819, for periodical sales for zamindár's arrears of rent, extended to other sales for rent.

2.—*First.* Whenever the proprietor of an estate paying revenue to Government shall desire to cause any tenure of the nature of those described in clause first, section 8, Regulation VIII, 1819, to be sold for arrears of rent due to him on account thereof, and shall, under any summary process authorized by the general Regulations, have acquired the right of causing such sale to be made, the same shall be conducted, after application from the zamindár, by the Register or acting Register of the Zila or City Court, or, in his absence, by the person in charge of the office of Judge of the district, in the mode prescribed by Regulation VIII above quoted for periodical sales.

Notice by proclamation.

Second.—Ten days' notice shall be given before proceeding to sale, by proclamation to be stuck up at the kachahri of the Court and at that of the Collector of the district.

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[a] This Regulation has been declared in force in the Sonthal Pergunnahs, by Reg. III of 1872, s. 3[a] as amended by Reg. III of 1886, s. 2.

& As to the substitution of the Collector of Land-revenue for the Judge, see Ben. Act VIII of 1865 - S. 3

Rules extended to sales hereunder.

Third.—The rules of sections 9, 11, 13, 15 and 17, Regulation VIII, 1819, are extended to all sales made after the manner herein provided.

REGULATION IV OF 1821.[a]

Passed on the 19th January, 1821.

Ref XII of 1879

A Regulation ~~for authorizing a Collector of land-revenue~~, or other officer employed in the management or superintendence of any branch of the territorial revenues, to exercise, in certain cases, the powers of a Magistrate or Joint Magistrate, and for authorizing a Magistrate or Joint Magistrate, or Assistant to a Magistrate, to exercise in certain cases the powers of a Collector of land-revenue or of any other officer employed in the ~~management or superintendence of any branch of the territorial revenues: Also~~, for explaining the duties of an Assistant Collector of revenue, and for defining the duties and powers vested in Assistant Collectors or other officers appointed to the charge of the revenues of parganas or other local divisions, or employed in the performance of any portion of the functions ordinarily belonging to the Collectors of land-revenue.

Preamble.

1.[b] Whereas it is expedient to explain the duties which may be performed by the Assistants to the Collectors of revenue, and to define the duties and powers vested in Assistant Collectors or other officers, when appointed to the charge of the revenues of parganas or other local divisions, or when employed in the performance of any portion of the functions ordinarily belonging to Collectors of the land-revenue; the following rules have been enacted, to be in force from the date of their promulgation throughout the territories subject to the Presidency of Fort William :—

2, 3. [*Power to confer magisterial powers on Collectors and vice versâ; oath to be taken by such Collectors and Magistrates.*] *Rep. by Act XII of 1873, s. 1.*

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[a] This Regulation has been declared to apply to the whole of Bengal except the Scheduled Districts by Act XV of 1874, s. 6, and under s. 3 of the Scheduled Districts Act, 1874, it has been declared in force in West Jalpáiguri, Western Hills, the Terai, Dumson, the districts of Hazáribágh and Manbhoom and Pergunnah Dhalbhoom—see *infra*, pp. 628 and 652.

~~The Regulation has been repealed in the Legislative to which the Assam Land and Revenue Regulation, 1886, extends~~—see Reg. I of 1886, s. 2, Assam Supplement.

[b] The first part of s. 1, repealed by Act XII of 1876, s. 1, has been omitted.

4, 5. [*Magistrates and Collectors in the exercise of such powers to be guided by Regulations, &c., in force; Magistrates employed in the collection of revenue to preserve records.*] *Rep. by Act XII of 1876, s. 1.*

6. *First.* [*Rules declaring Collector amenable to Zila and City Courts to be applicable to such Magistrates.*] *Rep. by Act XII of 1876, s. 1.*

Second. [*Proviso.*] *Rep. by Act XVI of 1874, s. 1.*

Institution of suit in Zila Court for recovery of public revenue.

7. In the institution of suits for the recovery of the public revenue, or in any case in which the institution of a suit by the Collector in the Zila[a] Courts is authorized or directed by the Regulations, a Magistrate or Joint Magistrate or Assistant to a Magistrate, employed in the collection of the revenue, not being himself in charge of the office of Judge of a Zila[a] Court, shall proceed according to the Regulations already in force for the guidance of the Collectors under similar circumstances.

Power to alter limits of Collectorships, and number of officers employed as Collectors.

8. *First.*—It is hereby declared and enacted that it is and shall be lawful for the Governor General in Council to cause such alterations to be made in the limits of the several Collectorships, and in the number of the officers employed as Collectors of land-revenue, as may from time to time appear expedient, as well as to vest such officers, being covenanted servants,[b] with authority to exercise the whole or any part of the functions ordinarily exercised by Collectors of land-revenue in such mahál or maháls belonging to such district or districts as may from time to time be deemed expedient; and any officers so employed shall perform their prescribed duties in the same manner, and subject to the same conditions and liabilities, as attach to Collectors of land-revenue in regard to such duties.

Power to depute subordinate officer to perform Collector's duties.

Second.—It shall also be competent to the Board of Revenue or other authority exercising the powers of that Board to depute any of the officers subordinate to their authority to exercise and perform all or any of the powers and duties ordinarily vested in Collectors of land-revenue within such local limits as they may judge expedient:

Provided, however, that in all such cases the Board or other authority aforesaid shall, on the day in which they may depute any officer as aforesaid, or as soon after as practicable, report their having done so for the information and orders of the Governor General in Council.

Power of Collectors to delegate part

Third.—The Collectors of revenue are hereby authorized, with the sanction of the Board of Revenue,[a] to delegate to their Assistants any part of their pre-

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[a] Certain words in ss. 7 and 8, cl. (3), repealed by Act XVI of 1874, s. 1, have here been omitted.

[b] Certain words in s. 8, cl. (1), repealed by Act XII of 1876, s. 1, have here been omitted.

of their duties to their Assistants.

scribed duties, which, from the extent of their general business or other cause, they may be unable to give due attention to themselves:

Provided, always, that in the event of a Collector deputing his Assistant to make local inquiries, or for any other purpose connected with the collection of the public revenue, he shall immediately report the same for the information and orders of the Board of Revenue[a] to which he may be subordinate.

Fourth. [*Oath to be taken by Assistant Collector.*] *Rep. by Act XII of 1873, s. 1.*

Assistants, &c., to be guided by Regulations, responsible for performance of duties, and amenable to Civil Courts.

Fifth.—Assistants or other officers exercising the powers of Collectors of revenue, or any portion thereof, under the provisions of this Regulation, shall be guided in every respect by the Regulations which have been, or may be, enacted for the management and collection of the revenue, as far as the same may be applicable to the duties committed to them respectively, and shall be considered responsible for the due performance of the duties entrusted to them, and shall be amenable to the Civil Courts of Judicature for any acts done by them in their official capacity, in opposition to the Regulations, in the same manner, and under the same rules, as the Collectors of revenue.

REGULATION III OF 1822.[b]

Passed on the 19th March, 1822.

A Regulation for modifying the constitution and altering the jurisdiction of the several Boards vested with the superintendence of the land-revenue in the territories belonging to the Presidency of Fort William.

Preamble.

1. Whereas the superintendence of the Delhi territory has recently been vested in the Board of Commissioners for the Ceded and Conquered Provinces, and for this and other causes it has become necessary to relieve the said Board from the charge of a portion of the districts now under their control: and whereas it is also desirable to modify the constitution and alter the jurisdiction of the several Boards intrusted with the management of the land-revenue, the following rules have been enacted, to be in force from the date of their promulgation:—

2-3. [*Repeals; three Boards of Revenue established for the Lower, Central and Western Provinces respectively.*] *Rep. by Act XVI of 1874, s. 1.*

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[a] Certain words in s. 8, cl. (3), repealed by Act XVI of 1874, s. 1, have here been omitted.

[b] This Regulation has been declared to apply to the whole of Bengal except the Scheduled Districts by Act XV of 1874, s. 6, and under s. 3 of the Scheduled Districts Act, 1874, it has been declared in force in West Jalpáiguri, Western Hills, the Terai and Dumson—see *infra*, p 628.

This Regulation has been repealed in the territories to which the Assam Land and Revenue Regulation, 1886, extends—see Reg I of 1886, s. 2, Assam Supplement.

4. *First.*—The said Boards shall each of them consist of such number of members as the Governor General in Council may from time to time appoint. Power to appoint members.

Second, Third. [*Sittings of Boards to be daily; forms of proceedings; sadr station.*] *Rep. by Act XVI of 1874, s. 1.*

5. *First.*—It shall be competent to the Governor General in Council, by an order in Council, to authorize a single member of any of the said Boards to exercise, either generally or locally, all the duties, powers and authority which are vested in the Board collectively, whenever circumstances may render such an arrangement desirable. Power to authorize single member to exercise duties of a Board.

It shall further be competent to the Governor General in Council similarly to authorize the several members of the said Board separately to exercise at the same time, and within the same limits, such part of the said duties, powers and authority as it may from time to time be judged proper to assign to each respectively, whenever, for the greater dispatch of business or other cause, it may appear advisable to divide the business of the Board, or to assign any special duty to any member separately: and several members separately to exercise part of duties.

Provided, however, that if a member exercising singly, as above, the duties, powers and authority of the Board, or any part thereof, shall in any case be of opinion that any decision or order of a Collector ought to be reversed or altered, he shall not pass any final order on the case without the concurrence of one or more of the other members, unless otherwise specially directed and authorized by Government.

Provided further that it shall not be competent to a single member of a Board to reverse or alter a decree or order passed by any other member:

Provided also that no settlement of the land-revenue, whether in perpetuity or for a term of years, shall be, or be held, final and binding upon Government, unless the same shall have been formally confirmed by the Governor General in Council.

Second.—Whenever two members of a Board shall jointly or separately have considered any question, if a difference of opinion shall arise between them, the decision of the question shall be postponed, and the case shall be referred to a third member, permanent or provisional, in such mode as may from time to time be directed by Government, and shall be determined according to the majority of voices. Procedure where difference of opinion arises.

Third.—In regard to the appointment, removal or punishment of the Native officers of Collectors of land-revenue or other functionaries subordinate to the Boards, a single member vested as above with authority separately to exercise the powers of the Board or any part thereof shall, within the Appointment, removal or punishment of Collector's Native officers by single member.

[a-a] Substituted by Act XII of 1851

[b-b] Inserted — ditto —

limits of his authority, be competent to proceed in the same manner as the Board collectively are authorized to proceed:

Proviso. Provided that, in any such case, if a member of the Board acting singly shall differ in opinion from a Collector or other functionary immediately subordinate to them, he shall not, unless otherwise specially authorized by ~~Government~~, pass any final order without the concurrence of one or more members of the Board.

Two members necessary to appoint, remove or punish officers of Board. *Fourth.*—No final orders regarding the appointment, removal or punishment of officers belonging or immediately subordinate to the Board shall (unless otherwise specially directed by the ~~Governor General in Council~~) be issued without the concurrent judgment of two or more members.

Single member may suspend any officer. *Fifth.*—Single members exercising separate authority as above shall be competent to suspend any officer under their authority, in like manner as the Board collectively may do; but all orders regarding the suspension of any such officer passed by a single member, unless in confirmation of an order or recommendation of a Collector or other intermediate authority, or unless specially authorized by the ~~Governor General in Council~~, shall be reported without loss of time to some other member, and shall be liable to be set aside by the decision of a majority of the Board.

Board may review, &c., their decisions. *Sixth.*—The Boards are authorized to review, rescind, alter or confirm any order and decision passed by them collectively, or by any member exercising, as above, separate authority, if an application to that effect be made to them by any party interested in the case, within the period of three months from the date on which the order or decision may have been passed, or good and sufficient cause shown for a further delay, and if, from the documents exhibited, the case shall appear to merit further investigation.

Procedure where members equally divided in opinion. But no order or decision passed by a single member exercising separate authority shall be reversed, altered or stayed excepting on the concurrent judgment of two or more members.

Seventh.—To provide for cases wherein the members of the Board shall not agree in opinion as to the decision or order to be passed in any case, and wherein the voices on each side may be equal, it shall be competent to the Governor General in Council to appoint one or more temporary or provisional members, who shall, in regard to the investigation and determination of the questions so in dispute, have and exercise the same powers and authority as if they ordinarily belonged to the Board; and, if a difference of opinion as aforesaid shall arise between two members of the Board holding joint sittings at any place where a temporary or provisional member may be stationed, the other permanent member or members of the Board being absent, it shall and may be

lawful for them, without reference to such absent member, to submit the question in dispute to the provisional member, and to issue orders in conformity with the opinion which he may support.

REGULATION VII OF 1822.[a]

Passed on the 8th August, 1822.

A Regulation for declaring the principles according to which the settlement of the land-revenue in the Ceded and Conquered Provinces, including Cuttack, Patáspur and its dependencies, is to be hereafter made, and the powers and duties belonging to Collectors or other officers employed in making, revising or superintending settlements; ~~for continuing, with certain exceptions, the existing leases within the said Provinces for a further term of five years~~; for defining, settling and recording the rights and obligations of various classes and persons possessing an interest in the land, or in the rent or produce thereof; and for vesting the Revenue-authorities with judicial cognizance in certain cases of suits and claims relating to land, the rent and produce of land.

Rep. XII of 1871

1. Whereas the existing settlement of the land-revenue in the Ceded Provinces will expire with the present Fasli year, and it has therefore become necessary to declare and enact the principles and rules according to which the demand of the State is thereafter to be regulated, and the manner in which future settlements and revisions of settlements are to be conducted; Preamble.

and whereas, a moderate assessment being equally conducive to the true interests of Government and to the well-being of its subjects, it is the wish and intention of Government that in revising the existing settlement the efforts of the Revenue-officers should be chiefly directed not to any general and extensive enhancement of the jama but to the objects equalizing the public burthens, and of ascertaining, settling and recording the rights, interests, privileges and properties of all persons and classes owning, occupying,

[a] This Regulation has been declared in force under s 3 of the Scheduled Districts Act, 1874, in the districts of Hazáribágh, Lohardugga and Manbhoom and Pergunnah Dhalbhoom—see *infra*, p 652

~~The Regulation has been repealed in the territories to which the Assam Land and Revenue Regulation, 1886 extends—see Reg. I of 1886, s. 2, Assam Supplement.~~

The provisions of Ben. Act VIII of 1879 apply to certain settlement-proceedings under this Regulation—see s. 14 of that Act.

managing or cultivating the land, or gathering or disposing of its produce, or collecting or appropriating the rent or revenue payable on account of land, or the produce of land, or paying or receiving any cesses, contributions or perquisites to or from any persons resident in, or owning, occupying or holding parcel of, any village or mahál:

and whereas, with these views and intentions, the Governor General in Council has considered it to be expedient and proper, with the exception hereinafter specified, to continue the existing assessment in all cases in which the settlement has been formed with zamindárs or other persons acknowledged as proprietors or possessors of a permanent interest in the mahúls for which they may have engaged, until a new settlement can be made, combining, with the revision of the Government jama and the deliberate investigation of the facts by the determination of which its amount must be regulated, a full inquiry into, and a careful settlement of, the rights and interests of all classes connected with the land:

and whereas the same principles are applicable to the district of Cuttack, the pargana of Patáspur and its dependencies, of which the settlement will expire with the present "Amali" year:

and whereas it has appeared expedient to make special provision for the early settlement of the district of Gorakhpur, the chaklá of Azamgarh, the pargana of Patáspur and its dependencies:

and whereas it is also advisable to provide for the revision of the settlement of the Conquered Provinces, and of the Province of Bundelkhand, pending the continuance of the existing leases:

and whereas it is the desire of Government that the proceedings held, and the records formed, by the Collectors when making settlements or otherwise specially employed in conducting inquiries of the above nature should be such as that all demands, claims and suits may be adjudged and determined according to the facts therein stated, until the same shall have been formally altered, or it shall be shown, by the result of a full investigation in a regular suit, that the proceeding or record of the Collector was erroneous or incomplete:

and whereas it is necessary to declare and define the powers and authority to be vested in Collectors in the conduct of the said inquiries, and the adjustment of the differences arising out of or made known by them:

and whereas it further appears advisable that the revenue-officers should in certain cases be vested with authority judicially to receive, hear, investigate and determine suits, claims and demands of the above description:

and whereas it appears to be expedient to declare and explain the views

and intentions of Government relative to the rights to be enjoyed and exercised by the sadr málguzárs or persons admitted to engage for the payment of the Government revenue, and by persons collecting the rents of the land or revenue of Government, without being subject to the payment of any portion of it to the public treasury, such as jágirdárs and other owners or managers of lákhiráj lands; and it is particularly necessary, in the case of estates held in pattidári or bhaiyáchárá tenure, to make further provision for protecting the sharers who have not been admitted to engagement with Government against the encroachments of the sadr málguzár, and likewise to secure the latter against the consequences of the embezzlement or misappropriation by the former of the funds whence the Government revenue ought to be discharged;

for the purposes and objects above specified the following rules have been enacted, to be in force from the date of their promulgation throughout the Ceded and Conquered Provinces, in the district of Cuttack, the pargana of Patáspur and its dependencies:

2. *First, second, third, fourth and fifth.* [*Extension of existing settlements in Ceded Provinces and Cuttack; proclamation of proposed extension; Gorakhpur and Azamgarh excluded; existing leases in Patáspur to continue from year to year.*] *Rep. by Act XVI of 1874, s. 1.*

Sixth.[a, b]—If any zamindár or other málguzár as aforesaid, who may now or hereafter be under engagement for the payment of the revenue demandable by Government on account of any mahál, shall be allowed by the Revenue-authorities to continue in the management of such mahál after the expiration of such engagement, and shall do or direct any act relative to the cultivation or management of such mahál, or the settlement, assessment or collection of the rents of such mahál, in or on account of any year subsequent to the term of such engagement, such zamindár or other málguzár aforesaid shall be held to be responsible on account of such year for the same revenue as may have been demandable from him for the year preceding, unless otherwise specially agreed upon:

General rule relative to zamindárs holding on after expiration of their leases.

Provided further that it shall be competent for Collectors or other officers exercising the power of Collectors, with the sanction of the Board or Commissioner to whom they may be subordinate, at any time, not being more than six months previous to the expiration of a settlement, to call upon the zamindárs or other málguzárs as aforesaid to declare whether or not they are willing

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[a] Certain words in s. 2, cl. 6, repealed by Act XVI of 1874, s. 1, have been omitted.

[b] The provisions of s. 2, cl. 6, and of the thirty-three following sections, have been extended to all lands not included within the limits of permanently-settled estates and to estates held khás and to the Sundarbans, &c.,—see Ben. Reg. IX of 1825, s. 2, *infra*, p. 220.

to continue their engagements for the ensuing year; and, if such zamindárs or other málguzárs shall not forthwith notify their refusal to do so, they shall be held to have agreed to such an extension of their leases at the existing assessment, and so on, from year to year, as aforesaid.

Zamindárs or other málguzárs who may be allowed to hold on from year to year shall not be chargeable with any additional revenue on account of any year, unless the Collector or other officer exercising the powers of Collector shall notify his intention to revise the assessment on or before the commencement of such year, unless where otherwise specially provided.

3. With respect to estates which are at present let to farm, a settlement thereof shall be made on the expiration of the existing leases for such a period as the Governor General in Council may direct.

Settlements how made.

A preference shall be given to the zamindárs or other persons possessing a permanent property in the mahál, if willing to engage for the payment of the public revenue on reasonable terms:

Provided also that, in cases wherein such mahál may be let in farm, the term of the lease granted to the farmers shall not exceed twelve years.

The above rules shall likewise be applicable to estates now held khás.

So in any case wherein the zamindárs and other proprietors may refuse to continue their existing engagements, or to enter into new engagements on equitable terms, it shall be competent to the Revenue-authorities to let the lands in farm for such period, not exceeding twelve years, as the Governor General in Council shall appoint, or to assume the direct management of them, and to retain them under khás management during the period aforesaid or such shorter period as may be judged proper:

Provided further that, if in any case it shall appear to the Revenue-authorities that the continuance or admission of any Rájá, zamindár, taluqdár or other person who may have engaged, or may claim to engage, for any mahál or mahál, in or to the management of such mahál or mahál, would endanger the public tranquillity or otherwise be seriously detrimental, it shall be their duty to report the circumstance to Government, and it shall be competent to the Governor General in Council, by an order in Council, to cause such mahál or mahál to be held khás or let in farm, for such term as may appear expedient and proper, not exceeding the period above specified.

Admission of particular persons to

4. In admitting particular parties to engage it was in no degree the intention of Government to compromise private rights or privileges, or to vest

the sadr málguzárs with any rights not previously possessed by them, excepting in so far as their interest in the land for which they may have engaged might be improved by the limitation of the Government demand, or otherwise by the resignation in their favour of rights previously vested in Government itself, or as it may have been found necessary, with a view to the punctual realization of the public dues, to vest the sadr málguzár, by special Regulation, with authority of distraint, or other powers of coercion over the under-tenants.

engage for payment of revenue, not to bar Revenue-officers from interfering to adjust rights of other persons or classes.

On the contrary, it is the anxious desire of Government, and the bounden duty of its officers, to secure every one in the possession of the rights and privileges which he may lawfully possess or be entitled to possess.

In pursuance of this principle, it is hereby declared and enacted that nothing in the above provisions for extending the existing leases, or in the stipulations of the existing settlements, do or shall be construed to bar the Revenue-officers, duly empowered in that behalf, from interfering to adjust the respective rights of the sadr málguzárs and their under-tenants; nor shall any claims to a remission or abatement of revenue be admitted on the ground of any decision or order passed in that behalf; but, if such decision or order shall operate materially to reduce the profits derived by any zamindár or málguzár from the mahál owned or managed by him, it shall be competent for such zamíndár or málguzár to relinquish his engagements, and the Revenue-officers shall in such case proceed to make a settlement of the mahál *de novo*.

Provisions relative to málikána and nánkár repealed.

5.[a] *First.*—The provisions contained in the existing Regulations regarding the allowance to be made to zamindárs and other málguzárs who may be excluded from the management of mahál owned or claimed by them, whether as málikána or nánkár, are hereby rescinded.

Málikána to be allowed to proprietors of estates farmed or held khás.

Second.—The proprietors of estates let in farm or held khás shall be entitled to receive an allowance of málikána, at such rate as the Board[b] or other authority exercising the powers of that Board may determine, anything in the existing Regulations notwithstanding: the said málikána to be apportioned in cases in which several proprietors may have heretofore held an estate under one common assessment, whether in joint tenancy or otherwise, according to the shares of each respectively:

Provided also that the málikána allowance granted to the proprietor or proprietors of any mahál shall not in any case be less than five per cent. on the

[a] As to intention of rules in s. 5 concerning málikána, see Ben. Reg. IX of 1833, s. 11, *infra*, p. 272.
[b] Certain words in s. 5, cl. 2, repealed by Act XVI of 1874, s. 1, have here been omitted.

nett amount realized by Government from the lands; nor shall it exceed ten per cent. on that amount without the special sanction of the Governor General in Council:

Provided further that, if the said proprietors shall in any case be in the receipt of any perquisite or the profits of any lands in lieu of the nánkár formerly granted to them by the Native Governments or otherwise, in consideration of their proprietary tenure, the amount of such allowance shall be deducted from the málikána to which they are by this section declared to be entitled:

Provided also that this rule shall not apply to such zamindárs as may continue in the occupancy of their tenures, whilst the mahál in which they are included is held khás or farmed, or of any part of them, that is to say, zamindárs who may cultivate or lease their lands and pay the revenue to the farmer or Government officer; nor, without the special sanction of Government, to any málguzár, zamindár or other proprietor or holder of land who may directly or indirectly continue to draw any allowance from the raiyats of the lands farmed or held khás;

Provided also that málguzárs not being actual proprietors of the land included in the estate for which they may have formerly been under engagements, though recorded in the accounts of past settlements as zamindárs, taluqdárs or the like, or being proprietors of a part only of such land, shall not receive the above allowance on the jama of the estate, but shall receive such allowance in lieu of their title of management as it may appear to Government to be equitable to assign, in addition to the málikána to which they may be entitled on account of any lands held by them in actual property, and of which they may not retain the occupancy: and no málikána shall be granted to any sadr málguzár on account of lands the occupants of which may deny his right of property, until he shall have established his right by a regular suit in a Court of Justice, or to the satisfaction of the Board. But in such cases such provision will be made for the intermediate support of the party as the Governor General in Council may, on the recommendation of the Board, see fit to direct.

Zamindárs may be called upon to state jama for which they are willing to engage.

Third.—Provided also that, if any zamindár or sadr málguzár shall have been called upon by a Collector or other officer exercising the powers of a Collector to state the highest amount of jama for the payment of which he may be willing to engage, and shall have stated the same accordingly, the sum so stated by such zamindár or sadr málguzár, and not the jama ultimately realized by Government, shall form the basis on which his málikána allowance shall be adjusted; and in such case it shall and may be lawful for the

Revenue-authorities to limit the said allowance to five per cent. on the said sum, or to a portion thereof, according to the extent of the proprietary interest possessed by the said zamindár or sadr malguzár:

Provided also that, if a zamíndár or sadr málguzár, when so called upon, shall fail to specify or tender any sum as aforesaid, then and in that case the nett revenue derived by Government from the mahál, on account of the year preceding that in which the Collector or other officer aforesaid may make the said requisition, shall be taken as the sum by which the amount of málikána (not being less than five, nor more than ten, per cent. on the same) shall be adjusted.

Revenue-officers may revise settlement of estates of which existing leases shall be extended under section 3, during continuance of such extended lease.

6. *First.*—In cases wherein the existing engagements may be continued under the rule contained in section 2 of this Regulation, it shall and may be lawful for the Collectors, with the sanction of the Board,[a] to enter at any time in the course thereof on a revision of the settlement, notwithstanding such continuance of the existing leases, and to adopt such measures as may be requisite for ascertaining and determining the extent and produce of the lands, and the amount of jama properly demandable therefrom, and for procuring and recording the fullest possible information in regard to the rights, interests, privileges and properties of the agricultural community, and to determine the same, with the same powers and authority as they now are or may hereafter be entitled to exercise in forming the settlement of estates open to re-assessment.

Revision of settlement how made.

Second.—The said revision of the settlement shall be made village by village and mahál by mahál; and such number of mahálsshall be revised in each year, as the Board, under the orders of the Governor General in Council, may direct.

Revision of settlement not to operate to alter jama payable on account of lands included in existing engagements.

Third.—Such revision of the settlement shall not operate to disturb the existing engagements during the period for which they may be continued under the provisions of section 2 of this Regulation in so far as such engagements relate to the amount of jama demandable by Government; but the said engagements shall be held and considered to include only such villages and lands as may be specified in the proceedings or accounts of the settlement last concluded; and, if on the revision of the settlement of any mahál it shall be found that there has been any material error or concealment of lands belonging to such mahál, the Collector shall be authorized, subject to the orders of the Board, separately to assess the lands so withheld from the knowledge of

[a] Certain words in s. 6, cl. 1, repealed by Act XVI of 1874, s. 1, have here been omitted.

the Revenue-authorities, in the same manner and with the same powers as he would assess an unsettled mahál:

Provided also that nothing in this or the preceding sections shall be construed to prevent the Revenue-officers from passing and enforcing such orders in regard to the rights and interests to be enjoyed by the different classes or persons connected with any mahál, during the period for which the existing settlement has been extended, as they may or shall be authorized to pass or enforce when adjusting the assessment of an unsettled mahál.

Revision of settlement in Conquered Provinces and Bundelkhand.

Fourth.—It shall in like manner be competent to the Collectors in the Conquered Provinces, and in the Province of Bundelkhand, to enter on a revision of the settlement under the provisions contained in the preceding clauses of this section during the continuance of the existing leases.

Leases to be granted on revision of settlement in Ceded Provinces, Cuttack, Bútápur, &c.

7. *First.*—When a Collector in the Ceded Provinces or in the Province of Cuttack shall have completed the revision of the settlement of any mahálś under the rules contained in the preceding section, it shall and may be lawful for him, subject to the orders of the Board[a] and of Government, to grant to the proprietors, if willing to engage on adequate terms, renewed leases for such further term of years subsequent to the year 1234, Fasli or "Amuli," as the Governor General in Council may direct.

Jama for years subsequent to 1234, how adjusted.

Second.[b]—The assessment to be demanded on account of the years subsequent to the year 1234 Fasli, to which leases renewed as above may extend, shall be fixed with reference to the produce and capabilities of the land as ascertained at the time when the revision of the settlement shall be made, unless under special circumstances justifying a prospective enhancement of the Government demand:

Provided also that the amount of such assessment shall not be raised above that of the present jama, unless it shall clearly appear that the nett profits to be derived from the land by the zamindárs and others who may be entitled to share in the profits arising out of the limitation of the Government demand will exceed one-fifth of that amount; and, in cases wherein any increase may be demanded, the assessment shall be so regulated as to leave the zamindárs and others aforesaid a nett profit of twenty per cent. on the amount of the jama payable by or through them respectively: no abatement on the existing jama will be allowed unless on the clearest grounds of necessity.

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[a] Certain words in s. 7, cl. (1), repealed by Act XVI of 1874, s. 1, have been omitted.
[b] The provisions of s. 7, cl. (2), have been partially repealed by Ben. Reg. IX of 1833, s. 2—see *infra*, p. 271.

Third.—The pattás granted on such revised settlements shall be held only to secure the málguzárs from further demand during the term of their respective leases, on account of the lands specified in it, or described in the settlement rúbakári of the Collector, with such allowance for error as may be distinctly declared at the time of settlement. Pattás granted on revised settlement to cover only lands specified.

Zamindárs and other persons entering into engagements will be required therefore to afford the fullest and most correct information in regard to the raqba of the mahál for which they may engage.

Fourth.—In like manner it shall and may be lawful for Collectors in the Conquered Provinces and in the Province of Bundelkhand to grant renewed leases for a further term of years subsequent to the expiration of the existing settlement, subject to the same rules, restrictions and provisions as are enacted in the preceding clauses relatively to the Ceded Provinces. Grant renewed leases in Conquered Provinces and Bundelkhand.

Fifth.—If any zamindár or other sadr málguzár, the settlement of whose estate may be revised under the above rules, shall refuse to enter into suitable engagements for a further period beyond the term of the then current lease, or if after such revision the Revenue-authorities shall under any other circumstances deem it expedient to postpone taking further engagements for the payment of the revenue of any mahál until the expiration of the current leases, it shall be competent to them to do so; and in such case the several rules contained in section 3 of this Regulation, relative to estates of which the settlement will expire with the present year, shall on the expiration of the said leases be and be held applicable to such mahál. Power to postpone final settlement until expiration of current leases.

Sixth.—The same rules shall also be applicable to the several mahál within the district of Gorakhpur, the chaklá Azamgarh, the pargana Patáspur and its dependencies, as they may respectively become, or be declared, open for re-settlement. Rules applied to estates in Gorakhpur, &c.

8. Where the waste-land belonging to or adjoining any mahál is very extensive, so as considerably to exceed the quantity required for pasturage, or otherwise usefully appropriated, it shall be competent to the Revenue-officers to grant leases for the same to any persons who may be willing to undertake the cultivation in perpetuity, or for such periods as the Governor General in Council shall determine; and to assign to the zamindárs or others who may establish a right of property in the lands so granted an allowance equivalent to ten per cent. on the amount payable to Government by the lessees, in lieu and bar of all claims to or in the waste-lands so granted, or such other perquisites or privileges as by the custom of the country they may appear in such cases entitled to receive. Letting of excess waste-lands. Allowance to zamindárs.

Investigations by Collectors making or revising settlements.

9.[a] *First*—It shall be the duty of Collectors and other officers exercising the powers of Collectors, on the occasion of making or revising settlements of the land-revenue, to unite, with the adjustment of the assessment and the investigation of the extent and produce of the lands, the object of ascertaining and recording the fullest possible information in regard to landed tenures, the rights, interests and privileges of the various classes of the agricultural community.

For this purpose their proceedings shall embrace the formation of as accurate a record as possible of all local usages connected with landed tenures, as full as practicable a specification of all persons enjoying the possession and property of the soil, or vested with any heritable or transferable interest in the land or the rents of it, care being taken to distinguish the different modes of possession and property, and the real nature and extent of the interests held, more especially where several persons may hold interests in the same subject-matter of different kinds or degrees.

This record shall, in pattidári or bhayáchára villages or the like, include an accurate register of all the co-parceners, not merely the heads of divisions, such as the pattis, thoks or behris, but also as far as possible of every person who occupies land, disposes of its produce or receives rent as proprietor or as agent for one or more proprietors holding land and disposing of its produce, or receiving the rents of it in common, with a detailed statement of the interior arrangements adopted by the brotherhood for the distribution of the profits derived from sources common to the co-parcenency where any such exist, and for determining the share of the Government jama and of the village-expenses which each parcener is to contribute, or the other modes in which the engaging parcener or intermediate pattidárs and behridárs collect from the cultivators.

A record shall likewise be formed of the rates per bighá of each description of land or kind of produce demandable from the resident cultivators not claiming any transferable property in the soil, whether possessing the right of hereditary occupancy or not, and the respective shares of the sadr málguzár or other manager, and the cultivator, in lands cultivated under kankút, bátái or similar engagements, with a distinct specification of all cesses or extra collections made by the málguzár or village-manager, or other.

The names of all the village-patwáris and village-watchmen shall also be registered, with a statement of the amount and nature of the allowance assigned them.

[a] The provisions of s. 9 have been partially repealed by Ben. Reg. IX of 1833, s. 3—see *infra*, p. 271.

And all lákhiráj tenures shall be carefully recorded, with a specification of the nature of the tenure.

The information collected on the above points shall be so arranged and recorded as to admit of an immediate reference hereafter by the Courts of Judicature, it being understood and declared that all decisions on the demands of the zamindárs shall hereafter be regulated by the rates of rent and modes of payment avowed and ascertained at the settlement, and recorded in the Collector's proceedings until distinctly altered by mutual agreement, or after full investigation in a regular suit: and all cesses or collections not avowed and sanctioned, nor taken into account in fixing the Government jama, shall be held illegal and unauthorized, unless now or hereafter specially sanctioned by Government.

Collectors, &c., may grant pattás to mufassal zamindárs and raiyats.

Second.—Provided also that it shall be competent to Collectors and other officers as aforesaid (subject to the orders of the Board)[a] to grant pattás to the several mufassal zamindárs and raiyats or other owners or occupants of land, for the land owned or occupied by them, specifying the amount to be paid by them, and all the conditions attaching to their tenure; and a register of all pattás so granted shall form a part of the rúbakárí of settlement.

Power to take engagements for revenue without completing detailed inquiry.

Third.—Provided, however, that, if from the number of estates of which the leases may at once expire in any district, or from any other special cause, it shall be found necessary, for the security of the Government revenue, to take engagements from any zamindár, málguzár or farmer, without completing the detailed enquiries above directed, it shall be competent to the Boards of Revenue or other authority exercising the powers of such a Board to cause engagements for the revenue to be taken in the manner heretofore in use, reporting the circumstance to the Governor General in Council; but the term of the engagements so taken shall not exceed five years, and the rules relative to the revision of the settlements of mahál of which the existing leases have been extended under the provisions of section 2 of this Regulation shall be equally applicable to estates for which such engagements shall be taken.

Power to determine which of several holders of differing interests, having separate properties in same land,

10. *First.*—Of several parties possessing separate heritable and transferable properties in any parcel of land or in the produce or rent thereof, such properties consisting of interests of different kinds, it shall be competent to the Governor General in Council to determine and direct which of such parties shall be admitted to engage for the payment of the Government

[a] Certain words in s. 9, cl. 2, repealed by Act XVI of 1874, s. 1, have here been omitted.

revenue, due provision being made for securing the rights of the remaining parties.

shall be admitted to engage, and to prescribe distribution of profit resulting from limitation of jama.

It is further hereby declared and enacted that it is and shall be competent to the Governor General in Council, in confirming the settlement of any mahál in perpetuity or for a term of years, to determine and prescribe the manner and proportion in which the nett rent or profit arising out of the limitation of the Government demand shall be distributed among the different parties possessing an interest in the lands appertaining to such mahál or in the rent or produce of such lands or mahál.

Mufassal settlements in cases where title of intermediate manager between Government and proprietors or hereditary occupants of soil are maintained.

Second.—In cases wherein any land appertaining to a mahál hitherto recognized as the taluqa, zamindári or the like, of one or more sadr málguzárs, may be owned or occupied by other persons holding under the sadr málguzár and possessing an heritable and transferable property therein, or an hereditary right of occupancy subject to the payment of a fixed rent, or of a rent determinable by a fixed principle, if the title of the said sadr málguzár to engage for the revenue be upheld, and generally in cases wherein the tenure of an intermediate málguzár or manager between the Government and the proprietors or hereditary occupants of the soil may be maintained, whether the Government revenue be collected from the zamindár, taluqdár or other hereditary intermediate málguzár, or the mahál be farmed or held khás, it shall be competent to the Collector or other officer who may be employed in adjusting the jama to be assessed on such mahál, with the sanction of the Board previously obtained and subject to the orders and directions of that authority, to make a mufassal settlement with each of the proprietors or occupants aforesaid for the land possessed by him, and to grant such proprietors or occupants pattás defining the condition on which they are to hold their land, whether subordinate to the sadr málguzár or to the farmer or officer of Government employed in the khás management; and in all such cases, if engagements for the Government revenue of the mahál be taken from the intermediate hereditary málguzár, the particulars of the mufassal settlement, when approved by the Board, shall be indorsed on the pattá to be granted to the sadr málguzár, or shall be so incorporated with the engagement taken from him as to form part of the same.

Settlement where several persons hold common property subject to common obligations.

Third.—In cases in which two or more persons may possess a joint property in any village, mahál or parcel of land, or in the rent or produce of any village, mahál or land, or in any part of such village, mahál, land, rent or produce, the property of such persons consisting of interests of the same kind, whether of the same extent or otherwise, as well as in cases wherein such property in any mahál, village, land, produce or rent may be separately possessed by

parties subject by prescriptive usage to common obligations, whether existing or contingent, it shall be competent to the Collector or other officer exercising the powers of Collector, subject to the orders and direction of the Board and of the Governor General in Council, either to make a joint settlement with the parties collectively or a majority of them, or with an agent appointed by them or a majority of them, or to select one or more of them to undertake the management of the mahál as sadr málguzárs, due advertence being had to the wishes of all the coparceners, and to the past custom of the village or villages comprised in the mahál.

When joint settlement to be made, parties how summoned.

Fourth.—When it shall be determined to make a joint settlement for any village, mahál or parcel of land with the parties possessing therein a joint property as aforesaid, the Collector or other officer making the settlement shall give notice of his intention, by a written proclamation to be stuck up in some public place within the village, mahál or land, and shall require all persons possessing therein a property as aforesaid to attend, either in person or by representative duly authorized in the matter, within a reasonable period, at a stated place and time, and to declare their agreement or non-agreement to the jama proposed to be assessed on the village or land.

Persons wilfully failing to attend when summoned, to be bound by decision of majority present.

Fifth.—If any person or persons, when summoned as above, shall refuse, neglect or omit to attend, either in person or by representative, such person or persons shall be held to be bound by the decision of the majority of those who may attend, in agreeing or disagreeing to the jama, and his or their interests and estate shall, unless otherwise specially allowed, be held responsible for the Government revenue, and be liable to sale in the event of any arrear accruing on account of the settlement.

Treatment of parceners not joining in settlement.

Sixth.—If any person or persons shall attend and shall object to the jama proposed to be assessed, then, should a settlement be made with the other parties present, the objecting parties shall be left in the enjoyment of the same rights and interests as they would enjoy in the event of the mahál being farmed or held khás; and, in so far as regards the lands to which such rights and interests attach, the other parceners, if their engagements be extended thereto, shall be considered farmers of the Government revenue to hold the same under leases of such term as may be determined and agreed upon under the general rules applicable to lands for which the proprietors may refuse to engage.

Rates of rent of cultivating proprietors of lands of which revenue

Seventh.—When any mahál or portion of a mahál, held by a number of cultivating proprietors in pattidári or bhaiyáchára tenure or the like, shall be let in farm or held khás, the rent demandable from the proprietors of such mahál or portion of mahál, on account of the land occupied and cultivated by

collected khás or farmed.

themselves, shall be adjusted by the rates payable by raiyats or other resident cultivators not having an heritable and transferable property in the soil, for lands of a similar description in the same or in the adjoining villages, with a deduction of five per cent. on account of málikána, or such other rate, not being less than five per cent., as Government may determine.

Liability for default of non-engaging parceners when settlement of mahál made with one or more of them as sadr málguzár.

Eighth.—When it shall be determined to make a settlement of a mahál of the above description with one or more of the parceners selected to manage, collect and account for the public revenue as sadr málguzár, then and in that case the interests of the non-engaging parceners shall not be held answerable for the default of the sadr málguzárs, save and except in so far as may be specifically provided.

Such parceners shall, until regularly separated, continue to hold their lands as subordinate proprietors, subject to the payment of rent or revenue to the sadr málguzár at the rates and in the mode heretofore in use, excepting in so far as that usage may be affected by the determination of Government in regard to the distribution of the nett rent or profit derived from the limitation of the Government demand, or by the rules now in force or hereafter to be enacted, for vesting the sadr málguzárs with specific powers over the subordinate tenants in the collection of the rent or revenue demandable from them.

The responsibility attaching to the persons selected as sadr málguzárs and the conditions under which they are to hold that title of management will in each case be specifically declared at or after the time when the settlement is confirmed.

Parcels separately owned and occupied may be separately settled

The conditions and limitations under which the subordinate proprietors shall be admitted to separate engagements will also be similarly declared.

Ninth.—Provided further that, in all cases wherein different parcels of land belonging to any mahál may be separately owned and occupied by different proprietors or by different bodies of proprietors, it shall be competent to the Boards of Revenue or other authority exercising the powers of that Board to cause a separate settlement to be made for the land owned and occupied by each proprietor or by each body of proprietors, and each parcel of land for which a separate settlement may be so made shall be held exclusively responsible for the revenue assessed upon it:

Power to partition and to settle separately with each proprietor.

Provided also that, if the several parties possessing a joint property or separate properties subject to a common obligation as aforesaid, or any of them, shall apply to a Collector or other officer making or revising a settlement to have separate possession of their several share or shares in such joint property, or to be admitted to separate engagements, it shall be competent to

such Collector or other officer, with the sanction of the Board or other authority to which he may be subordinate, to make a partition of the property among the different parties according to their respective interests, and to make a separate settlement with each of them or with such as may desire to enter into separate engagements.

Tenth.—In all cases wherein any proprietors may be excluded from engagements the Collector shall be careful to let it be known that all persons possessing a property in the mahál are entitled to have their names recorded in the rúbakári of settlement, with the amount or rate of the assessment demandable from each.

Proprietors excluded from engagements may have their names registered.

11. *First.*—The Collector's proceedings in forming the registry above directed shall be founded on the basis of actual possession, and that officer shall, in every instance, be careful to record the precise nature of the authority on which the entries in his books may be made.

Collectors forming such registry to proceed on basis of actual possession.

In conformity with the above principle it shal be competent to the Collectors or other officers when making or revising settlements, or otherwise deputed to investigate and determine the circumstances of any mahál, and the nature of the tenures connected with it, to correct the errors or omissions of former settlements by admitting to engagements or entering on the public records the names of the persons found in the *bonâ fide* possession of land or in the receipt of rent under a proprietary title; and in such cases the Collector will hold an official proceeding, explaining fully the grounds on which he may act.

12.[a] *First.*—In cases in which the proportion of the Government jama and village-expenses payable by each proprietor and by each body of proprietors comprised in the several pattis, behris and other divisions of an estate held under pattidári or bhaiyáchára tenure or the like may have been originally fixed on a measurement of the lands occupied by each, with reference to the quantity in cultivation, and may be liable by the usage of the country to periodical adjustment on the same principle, if the Collector or other officer making or revising the settlement shall be satisfied, by examination of the patwáris' accounts or otherwise, that the contributions paid by any proprietor or body of proprietors as aforesaid, are materially in excess of the amount justly demandable from them, it shall be competent to him, with the previous sanction of the Board, to cause a new distribution to be made of the revenue and charges payable by each, with reference to the above principle, and to such resolutions as Government may have passed relative to the apportion-

In estates held under pattidári, bhaiyáchára or like tenure, Collectors may re-allot revenue and charges payable by several partners;

[a] The provisions of s. 12 have been partially repealed by Ben. Reg. IX of 1833, s. 2—see *infra*, p. 271.

ment of the nett rent or profits arising out of the limitation of the Government demand, and in the performance of this duty to employ the kánúngo, and such person or persons as he may judge it advisable to appoint, and to settle the jama payable by the different parties according to the award of such person or persons, or otherwise as shall appear to be just and equitable.

and in certain cases may make fresh partition of land.

Second.—In like manner, in cases in which the several proprietors shall be entitled not only to an adjustment from time to time of the jama payable on account of the lands occupied by them, but likewise to a periodical partition of the lands of the village, with reference to the share recorded as belonging to each, it shall be competent to the Collector to cause a fresh partition of the lands and adjustment of the jama to be made as above prescribed, and at the same time to fix and declare the period from which the arrangement as finally settled is to have effect, and to adjust the claims of the parties relative to the revenue intermediately paid by them, as may appear equitable:

Provided, however, that no such partition or adjustment shall be final until confirmed by the Board[a] or other authority exercising the powers of that Board:

Cases in which parties affected by Collector's decision may contest it in Court.

Provided also that, if any parties shall dispute the existence of the usage under which the partition of the lands shall have been made, and shall claim to be restored to possession of the lands which the Collector may have transferred to another, or shall consider himself entitled to the benefit of a new partition of the lands comprised in the mahál to which he may belong, in any case in which the Collector may have refused to order it, it shall be competent to the said party to bring a regular suit in the Zila Court against the person or persons to whom the lands may have been transferred, or the person or persons who may resist the partition, to try the justness of the Collector's decision; but, if the existence of the usage shall be admitted or established, it shall not be competent to the Courts of Judicature to question the accuracy of the partition of the land or adjustment of the jama,

On what points Revenue officer's decision conclusive.

and, whenever the decision of a Collector for the partition of any land shall be set aside, it will of course belong to the Revenue-authorities to re-adjust the jama with reference to the interests of the parties as defined and settled by the final decision of the Courts of Judicature, and to the conditions of the tenure, and to any general or special resolution of Government relative to the distribution of the nett rent or profit arising out of the limitation of the public assessment.

Collectors not to disturb possession

13. Collectors and other officers exercising the powers of Collectors shall not, unless where specially authorized in the manner prescribed in this or some

[a] Certain words in s. 12, cl. 2, repealed by Act XVI of 1874, s. 1, have here been omitted

BENGAL SECRETARIAT

other Regulation, do any act tending to disturb possession, but shall leave the Adálat to investigate in a regular suit all claims of persons not in possession, but deeming themselves entitled to be so. unless specially authorized.

14. *First.*—Collectors making or revising settlements shall, in cases in which any dispute may exist in regard to the nature of the tenure of any person occupying the soil, be competent to declare in an official proceeding, to be incorporated in the rúbakári of settlement, the nature and extent of the interests actually possessed by such occupant, referring to the denomination heretofore applied to him only as one means of proof in regard to the nature of the interest, but stating at length, with specification of any examination he may take for his satisfaction, the grounds of his determination; Collectors making or revising settlements may declare nature and extent of interests of persons occupying land.

so also in cases of dispute regarding the extent of the interest belonging to any sharer in a village or villages held under pattidári, bhaiyáchára or the like tenure, such sharer having actual possession of a portion of such village or villages, or being in the actual receipt as proprietor of a share of the joint profits of the land, it shall be competent to the Collector to decide the point in the first instance in his rúbakári of settlement, and to enforce his decision, leaving the party who may deem himself aggrieved to seek redress by a regular suit in the Courts to try the right;

but nothing herein contained shall be construed to authorize the Courts to interfere with the decision of the Collector in regard to the amount or proportion of jama to be assessed on any parcel of land, or in respect to the quantity and description of land to be assigned in partition to the holder of any specific share of a joint estate.

Second.—The above rule shall not be construed to empower Collectors, unless otherwise authorized, to take cognizance of any claim to receive a larger portion of the common profits than the claimant has hitherto enjoyed, or to hold a larger portion of the village or villages than he has hitherto occupied. Cognizance of claims to larger profits, or larger share of village, than hitherto.

Third.—The decisions passed by the Collectors under the above powers, if not altered or annulled by the Board or by Government, shall be maintained by the Courts, unless on investigation in a regular suit it shall appear that the possession held under such a decision is wrongful; and nothing herein contained shall be understood to authorize any Court to interfere with the decision of the Revenue-authorities relative to the jama to be assessed on any mahál or portion of a mahál, or to the extent and description of lands belonging to any mahál that may be assigned on the partition of the same to the several parceners concerned. Maintenance by Courts of decisions of Revenue-officers. Bar to interference by Courts.

Fourth.—If any person shall complain to a Collector or other officer making Cognizance

by Collectors of complaints of wrongful dispossession.

or revising the settlement of any mahál that he has been wrongfully dispossessed from any lands, premises, crops, orchards, pasture-grounds, fisheries, wells, water-courses, tanks, reservoirs or the like, within such mahál, or of the rents, produce or profits of such lands, premises, &c., the like as aforesaid, or that he has been wrongfully disturbed in the possession thereof, it shall be competent to the Collector or other officer aforesaid to inquire into the matter, and, if the party so complaining shall appear to have been in possession in the year preceding that in which the complaint is brought, and there shall otherwise be reason to believe that he has been violently or wrongfully dispossessed or disturbed, it shall be competent to the Collector to restore or confirm him, recording the grounds of his determination in a rúbakári; and the opposite party shall in such case be left to bring a regular suit in Court to try the question of right.

Adjustment of disputes as to possession.

In like manner, should a Collector or other officer as aforesaid find that there exist in any mahál of which he may be making or revising the settlement any disputes relative to the possession of lands, premises or the like which it may be expedient to adjust, it shall be competent to the Collector or other officer aforesaid to pass a decision determining the point of possession, leaving the question of right, if further disputed, to be settled by the result of a regular suit in the Adálat.

Cases to which foregoing provisions apply.

Fifth.—The above provisions will be held to apply to all cases in which a zamindár or under-tenant, whether farmer or raiyat, having by special deed or prescriptive title a right of occupancy, shall have been wrongfully ousted from the occupancy of lands held and cultivated by him in the preceding year, or in which the rents and profits of any land which were received by such dispossessed party in the preceding year shall be withheld from him without a legal award, or a voluntary act of the party involving the transfer, renunciation or relinquishment of such rents and profits.

But the above rule shall not apply to any case in which the complaining party may have executed any deed purporting to be a relinquishment of possession, unless it shall have been established by some judicial proceeding that such deed was extorted by force and terror, nor to any cases wherein the complainant shall have in any way lost or relinquished possession previously to the commencement of the year preceding that in which the complaint may be preferred.*

In settling

15. In the settlement of any resumed mahál held or pretended to be held

* The provisions of s. 14 have been partially repealed by Ben. Reg. IX of 1833, s. 3—see *infra*, p. 271.

under sanads from the ruling power, or from the ámils or other officers of the Government, whether such lands shall have been heretofore subject to the payment of revenue or otherwise, it shall be competent to the Collector or other officer making the settlement to hear, try and determine all claims to the property and possession of the land comprising such mahál, or the rents or produce thereof, anything in the existing Regulations notwithstanding, and subject to the orders and direction of the Board of Revenue or other authority exercising the powers of that Board to give possession to, and conclude a settlement with, the party who may appear to have the best title, leaving other claimants to establish their claims by a regular suit in the Zila[a] Court, by which[a] all decisions passed by the Revenue-authorities under this section may, on such suit being fully heard, sued and determined, and not otherwise, be revised, annulled or altered.

resumed mahálsCollectors may take cognizance of claims to property therein;

and may give possession to parties appearing to have best title.

The above rule shall not extend to lands held free of assessment under grants made by or at the request of the proprietors themselves or their representatives, the settlement of which shall ordinarily be made with the parties in possession, if willing to engage on adequate terms.

Limitation of rule.

16. It shall be competent to the Governor General in Council to grant to a Collector making or revising the settlement of any mahál, whether the same may have been held by a lákhiráj tenure resumed, or being málguzári may have become open to resettlement in ordinary course, special authority to hear, try and determine as above all claims to the property and possession of the lands lying within such mahál or the rent or produce thereof, and to give possession to the party who may appear to have the best title, subject to the orders and direction of the Board, and further subject, as above, to the revision of the Zila[a] Court on a regular suit:

Power to grant to Collectors making or revising settlements special authority to take cognizance of claims to property and possession of land.

Provided also that, whenever special authority may be given to any Collector as aforesaid, notice of the order of Government shall be published by a proclamation within the mahálsto which the authority so given may extend; and it shall be the duty of the Collectors and the Boards[b] to see that such proclamation is duly made.

But no decision passed by a Collector under this or any other section whereby such notification is required shall be disturbed by any Court of Judicature, otherwise than after a full and regular investigation of merits, on the plea that proclamation was not made.

17. It shall be competent to Collectors and other officers engaged in

Power to take

[a] Certain words in ss. 15 and 16, repealed by Act XVI of 1874, s 1, have here been omitted.
[b] *Sic*, read "Board."

Cognizance of claims to property in lands held lakhiráj, or at a mukarrari jama, under valid tenures, and to settle with proprietors on behalf of lákhirájdár or mukarraridár

making or revising the settlement of any pargana, mauza or other local division, on the application of persons claiming a right of property in lands held free of assessment, or at a mukarrari jama, under unquestioned grants from the ruling power, or from the ámils or other officers of Government, and situate within or adjoining to such pargana, mauza or other local division, to receive, try and determine the claim; and, if satisfied that the applicants do possess or are entitled to possess an hereditary and transferable property in the land or the produce or rent thereof, the Collector or other officer, with the sanction of Government previously obtained, shall be authorized to conclude a settlement with them on behalf of the lákhirájdár or mukarraridár, for such period as the Governor General in Council may direct, and shall grant to each of the said proprietors pattás defining the conditions on which they are to hold their lands subordinate to the lákhirájdár or mukarraridár.

It shall further be competent to the Collector, under the orders of the Board[a], to fix and declare the amount of málikána or other proprietary allowance to be paid by such lákhirájdárs or mukarraridárs to the said proprietors, in the event of their being divested of the occupancy and management of their lands:

Provided, however, that either party who may be dissatisfied with the decision of the Collector as to the question of the right of property shall be at liberty to contest the same in a regular suit in the Adálat; but the Court shall not interfere to alter the terms on which the settlement may have been made by the Collector with proprietors, or the amount of málikána granted to such persons.

Collectors to be judges of question of jurisdiction.

18. The Collector shall in cases of doubt be the judge of the question of jurisdiction, subject to the orders of the Board and of Government; and the Courts of Judicature shall not disturb possession given by the Collector, except on a regular suit, and on a decision as to the right.

Collectors authorized to summon witnesses and require production of accounts.

19. *First.*—It shall be competent to Collectors, when prosecuting the above inquiries or hearing and trying the above suits, or otherwise when authorized in that behalf by the Board to which they may be subordinate, to require all sadr málguzárs and other persons owning, occupying, managing or cultivating any lands within or in the vicinity of the mahál to which their inquiries may extend, or gathering or disposing of the produce thereof, or collecting, enjoying or appropriating any rent or revenue derived therefrom, as well as the gumáshtas or other agents employed by such persons in the management or cultivation of the land, or in the collection of the rent, pro-

[a] Certain words in s. 17, repealed by Act XVI of 1874, s. 1, have here been omitted.

duce or revenue thereof, to attend and produce all accounts or other papers which they may respectively possess relative to such lands, produce, rent or revenue, and to examine the said persons on oath or halfnáma to the truth of the accounts produced, or any other matter relating to such accounts, or regarding the lands, produce, rent or revenue of the mahál or the rights and interests attaching to such lands, produce, rent or revenue:[a]

Provided, however, that no person shall be compelled to answer on oath or solemn declaration any interrogation regarding matters wherein he may have an immediate personal interest in concealing the truth, or in uttering what is false, not being an interest arising out of fear, favour or reward, or any corrupt bargain or agreement with another party.

Rules of Regulation II, 1819, applied to process issued by Collectors;

Second.—The rules contained in section 11, Regulation II, 1819, relative to the mode of serving process on persons who may be required to attend and produce accounts under the provisions of that Regulation, shall be and be held applicable to processes issued by Collectors or other officers under the rules contained in this Regulation.

also to patwáris and others summoned or examined.

In like manner the provisions of section 12 of the said Regulation shall be applicable to all patwáris, gumáshtas or other persons by whom the accounts of any lands, regarding which the said inquiries may have been instituted, may be kept, and who, after being duly summoned as aforesaid, may neglect or omit to produce any of the accounts required from them, or to give their evidence regarding them, or who may deliberately give a false deposition on oath or solemn declaration, when summoned and examined as aforesaid, or who may alter, fabricate, falsify or mutilate the accounts which they may be required to produce:

Powers of Collectors.

Provided further that Collectors and other officers employed in the settlement of the land-revenue, or in any of the inquiries specified in this Regulation, shall be vested with all the powers and authority which are or may be lawfully exercised by Collectors in cases depending before them under Regulation II, 1819; and the rules contained in clause third, sections 13, 14 and 19 of the said Regulation, shall be and be held applicable to all persons who may be summoned by any Collector or other officer aforesaid, or who may resist the process of a Collector issued under the rules of this Regulation, or who may refuse to take an oath or subscribe a solemn declaration when required, or who may deliberately give a false deposition on oath or under a solemn declaration taken instead of an oath, or may cause or procure another to do so.

Rules applied to other persons upon whom process may be issued.

[a] As to penalty on landholders for not attending when summoned by Collector, see Act XX of 1848, s. 1, *infra*, p. 280.

Powers ordinarily vested in Collectors making or revising settlements.

20. [a] *First.*—The powers specified in sections 11, 12, 14, 16, 17, 18 and 19 of this Regulation shall be ordinarily exercised by Collectors when employed in making or revising settlements of the land-revenue, and shall extend to all the lands comprised in the pargana in which he may be so employed; but it shall be competent to the Government, by an Order in Council to be publicly proclaimed in the district, to restrict the authority of Collectors and other officers making settlements in such manner and to such extent as he[b] may from time to time judge expedient.

In like manner it shall be competent to Government to vest such Collectors as may from time to time be judged fit with a special authority to receive, try and determine in the first instance, subject to a regular suit in the Adálat as above provided, all or any of the questions of the nature specified in the aforesaid sections, though the said Collectors may not be engaged in making or revising a settlement of the land-revenue, and to vest in such of the Collectors as may be thought proper authority (either generally or within such limits as may be from time to time determined) to receive, try and determine by summary process all suits for rent which may be preferred by zamindárs, taluqdárs or other sadr málguzárs or farmers of land, or by any person in their behalf, against any dependent taluqdár, zamindár, under-renter, raiyat or other under-tenant of whatever denomination, as well as all applications by raiyats and the under-tenants contesting the demand of a sadr málguzár or farmer;

and all complaints preferred by raiyats or other under-tenants of whatever description, against landholders or farmers of land, or their respective agents or representatives, on account of excessive demand or undue exaction of rent, whether levied by distraint or otherwise, as well as all suits relative to the adjustment of accounts between landholders and farmers of land or under tenants of whatever description, with their sureties, or with any agents or persons employed by them in the management of land, or the collection or payment of the rent of land, and to all other matters immediately connected with the demand, receipt or payment of the rent of land, whether málguzári or lákhiráj, or with the rent of orchards, pasture-grounds and fisheries, commonly

[a] So much of s. 20 and the following sections as applies to suits for rent, to complaints of excessive demands, or undue exaction of rent, or of the non-delivery of pattás or receipts, to suits against agents for money or accounts, or to any other suits or complaints arising out of disputes between landholders or farmers and their under-tenants respecting the rent and occupancy of land has been repealed by Act X of 1859, s. 1.

For power to vest Collectors, &c., with powers specified in this section, see Ben. Reg. IX of 1825, s 3, *infra*, p. 221.

The provisions of the section have been partially repealed by Ben. Reg. IX of 1833, s. 3—see *infra*, p. 271.

[b] *Sic.*, read "it."

denominated phalkar, bankar and jalkar, or with any other asset of the land revenue not included in the sáir abolished, together with all complaints of the non-delivery of pattás when demandable under the Regulations, or complaints of the prescribed receipts not being given for actual payment of rent, and generally complaints of any deviation from the Regulations, or from the established usage of the country, relative to the matters aforesaid, or any violation of subsisting engagements in disputes respecting the rent and occupancy of land, between landholders or farmers of land and their under-tenants of whatever denomination.

Appointment of Collector to discharge above duties, how notified.

Second.—The appointment of the Collector to the discharge of the above duties, and the extent of the jurisdiction to be assigned to him, shall be notified by proclamation in the district, after such manner as the Governor General in Council may direct; and, after the publication of notice, all summary suits, actions, applications and complaints of the above nature, and referring to lands or the rents, produce or accessions of land lying within the jurisdiction assigned to the Collector as above, which may be preferred in the Zila[a] Adálat by any sadr málguzár, zamindár, taluqdár, farmer, raiyat or other proprietor or under-tenant of land, shall immediately, on being received, be referred for trial to the Collector, to whom also all such summary suits depending at the time shall be transferred:

Provided also that in such cases parties having suits or complaints to prefer, of which the cognizance may be vested as above in the Collector, shall be at liberty to prefer them to that officer in the first instance.

It shall in like manner be competent to the Governor General to fix, by an Order in Council, the period at which the special powers given as above to a Collector, and the authority to be ordinarily exercised by those officers on the occasion of making settlements, shall cease and determine.

Limitation of time for preferring complaints specified.

Third.—No complaint or application of the nature specified in the preceding clauses shall be received by a Collector under the rules of this Regulation, unless the plaint or application shall have been preferred within the period of one year after the cause of action shall have arisen.

Rules for guidance of Collectors; their powers.

21. In summary suits for rents and the like, wherein special rules have been prescribed for regulating the process of the Courts, the Collectors shall be guided by the same rules, and shall exercise the same powers and authority, as are or may be lawfully exercised by the Zila and City Judges.

In other cases falling under their cognizance according to the provisions of

[a] Certain words in s. 20, cl. 2, repealed by Act XVI of 1874, s. 1, have here been omitted.

this Regulation, the ordinary process for securing the attendance of the defendant or party otherwise impleaded shall be to issue a notice reciting the matter, and requiring the defendant or other party to attend in person, or by representative, at such time and place as may be made choice of by the Collector for conducting the investigation;

should any party fail to attend after being served with a notice of the above description, or should the return of the názir or person employed to serve the notice be, that after diligent search the party or parties cannot be found, proclamation shall be made in writing, to be stuck up at or near the ordinary residence of the party, stating that, after fifteen days from the date of publishing the same, the case will be liable to be brought up for trial and judgment; and any party implicated, who, having been served with the notice above described, shall fail to attend or who shall continue to absent himself, will be as much bound by the judgment that may be passed as if he or they had been in attendance to plead.

22. [*Extension of ss. 18 and 19 of Reg. VIII of 1819.*] *Rep. by Act X of 1859, s. 1.*

Collector's kachahri held a Civil Court.

23. *First.*—It is hereby declared and enacted that, in so far as concerns the summoning and examination of witnesses, the penalties for false testimony, for resistance of process, contempts and all other similar matters connected with cases under cognizance before the Collectors of land-revenue or other officer, by virtue of the powers vested in them by this Regulation or any other Regulation whereby Collectors are vested with judicial powers, their kachahri or office for the time being shall be deemed and held to be a Court of Civil Judicature.

Suits to contest Collector's decisions held to be appeals from summary awards.

Second.—Provided also that the regular suits which may be brought to contest decisions passed by Collectors under the powers vested in them by sections 11, 12, 14, 15, 16, 17, 18, 19 and 20 shall be of the nature of an appeal to Court in its regular jurisdiction from a summary award. It shall not therefore be necessary for the Collector or other officer of Government to be a party in the action

Collectors authorized to execute their awards.

Third.—Collectors of the land-revenue are hereby empowered to execute all awards made by them under the rules of this Regulation, in cases wherein a specific sum of money shall be adjudged to be due, or any costs or damages be awarded; the Collector decreeing the same shall proceed to levy the amount for the party in whose favour it may be adjudged by the process in use for the recovery of arrears of the Government revenue:

Provided, however, that he shall not sell any lands, houses or other real

property in satisfaction of any judgment passed in favour of any individual on a summary inquiry.[a]

In cases wherein possession of lands, houses, watercourses or the like may be adjudged, it may and shall be lawful for the Collector making the award to deliver over possession in the same manner and with the same powers in regard to all contempts, resistance and the like as are or may be lawfully exercised by the Courts in giving possession to an auction-purchaser; and the Zila Adálats shall support the Collectors in the exercise of the above power, and shall give effect to any orders passed by them in pursuance of it in the like manner as if the same had been passed by themselves.

Collectors are further hereby empowered to place one or more peons, mirdahas, sawárs or the like to aid in the maintenance of possession for the party to whom it may be awarded, in case of his deeming such a measure necessary or expedient.

Collectors authorized to depute Native officers to make inquiries preparatory to settlement.

24. *First.*—It shall and may be lawful for a Collector or other officer exercising the powers of Collector, preparatory to making or revising a settlement as aforesaid, to depute any tahsildár, kánúngo, amin or other fixed or temporary officer to any village or mahál, whether the same be managed by a zamindár or farmer or be held khás, to inquire into the various matters which such Collector or other officer is required or empowered to investigate, in order to form a settlement in the mode prescribed by this Regulation.

Any such Native officer so deputed as above shall be deemed to be vested with the power of summoning and examining patwáris, gumáshtas or other persons by whom the accounts of the village or mahál may be kept, in the same manner and with the same powers as it provided for officers deputed under section 25, Regulation XII, 1817.

Furthermore, in case the Collector or other officer may so prescribe, the said tahsildár or other person shall be empowered to make a measurement of the village or mahál into which they may be deputed, and to summon any mukaddams, padháns, raiyats or other residents, and to call upon them to point out the boundaries of such village or mahál, and to furnish information as to all matters relating to the land and the rights and interest attaching thereto; and any person contumaciously withholding information from an officer deputed as aforesaid shall be liable, on the same being established to the Collector's satisfaction, to the same penalty as is prescribed for patwáris refusing to attend or give evidence.

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[a] So much of cl. 3 of s. 23 as prohibits the Collectors from selling *land* in satisfaction of summary awards for arrears of rent which may have accrued thereon, has been repealed by Act VIII of 1835, s. 1.

✓ Printed Supra p 126

Punishment of resistance or obstruction of process or order of Collector.

Second.—Provided also that any person who may by force or threats obstruct or resist the execution of any legal process, requisition or order of a Collector or other Revenue-officer shall, in addition to the penalties prescribed by the existing Regulations for such act, be liable to a fine not exceeding two hundred rupees, or to imprisonment in the Diwáni jail for a period not exceeding two months; the said fine or other penalty to be adjudged by the Collector, after proceeding duly held and recorded, and the sentence to be immediately reported to the Board to which he may be subject.

Police-officers to aid execution of process and orders of Collector.

Third.—Provided further that all police-officers shall aid and support the execution of all process and orders issued by a Collector or other officer aforesaid, on the responsibility of the officer issuing or executing the same; and, if any affray or breach of the peace shall occur in consequence of any resistance or obstruction being made, or attempted to be made, to the legal process or order of a Collector or other Revenue-officer, the parties resisting or obstructing such process or order shall be punishable for the affray or breach of the peace, and the Revenue-officers shall not be liable to any criminal prosecution on that account.

25. [*Employment of Vakils or Agents by parties in suits before Collectors.*] *Rep. by Act XX of 1865, s. 3.*

Pleadings required

26. No other pleadings shall be required from the parties in such suits than a plaint and answer:

Provided that, if the parties should at any time wish to file an amended plaint or an amended answer, or any explanatory motion, such subsidiary pleadings shall be received.

27. [*Stamped paper to be used.*] *Rep. by Act XII of 1876, s. 1.*

Collectors may try and determine suits in any part of their districts

28. It shall be competent to the Collectors to hear and determine such suits in whatever part of the district they may occasionally be or reside:

Provided that every hearing and decision be in public kachahri or in some other place open to the public, and in the presence of the parties or of their constituted agents or vakils, if in attendance.

Appeal to Board.

29.[a] *First.*—The decisions of the Collectors on all such suits shall be appealable to the Board of Revenue or other authority exercising the powers of that Board.

The petition of appeal shall be presented either to the Collector or to the Board, at the option of the party[b]; but no petition of appeal shall be received after the expiration of three months from the date of the decision,

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[a] S 29 has been amended as to period for presenting appeals by Ben Act III of 1868.

[b] Certain words in s 29, cl. (1), repealed by Act XII of 1876, s. 1, have here been omitted.

unless sufficient cause shall be shown for the delay to the satisfaction of the Board:

Procedure on such appeals.

Provided also that the Board shall not be required in ordinary cases to go into a regular investigation of the merits, but shall be authorized to dismiss the appeal without further investigation, in all cases in which, on a consideration of the final rúbakári of the Collector, they may not see ground to consider the decision of that officer to be unjust, erroneous or doubtful, or his proceedings in the case irregular or imperfect:

When Board may direct new trial or interpose to correct neglect or delay.

Provided also that in all cases in which the Collector may dismiss the suit for non-attendance, or on some other ground of default, without an investigation of the merits of the case, it shall be competent to the Board to direct a new trial, and, in cases in which he may neglect or delay the investigation or decision of a suit without sufficient cause, it shall be competent to the Board to interfere, and to cause the Collector to proceed upon the inquiry into and determination of it.

Pleadings required in appeals to Board.

Second.—No pleadings, except the petition of appeal, shall be required in such appeals, nor shall any fees be taken by the Board on the exhibits originally filed, or on any further documents which the Board may think it necessary to call for.

No mukhtárnáma required for same agents re-employed.

Third.—If the parties choose to employ in the pleading of such appeals the same agents or vakils who were previously employed by them in the original suit, no further mukhtárnáma or vakálatnáma shall be required of them.

Respondent to receive notice, but not required to appear.

Fourth.—The respondent shall receive notice of the appeal, but shall not be compelled to appear in person or by vakil; and the appeal shall be decided on the merits of the case, notwithstanding his absence, in the same manner as if he had attended.

Board's decision how far final.

Fifth.—The decision of the Board shall be final in as far as concerns the result of the summary inquiry of the Collector.[a]

But decision of Board and Collector may be contested by regular suit.

Sixth.—Any person, however, dissatisfied with the summary judgment of the Collector or the Board, and desirous of a more full and formal decision, shall be at liberty to prefer a regular suit to try the merits of the case in the Zila or other similar or superior Court in which it may be cognizable.

In such cases the summary judgment of the Collector, if not reversed or stayed by the Board, shall be carried into effect notwithstanding the institution of the regular suit.

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[a] The rest of s. 29, cl. (5), repealed by Acts XVI of 1874, s. 1, and XII of 1876, s. 1, has been omitted.

Parties having claims cognizable by Collectors, and not wishing summary trial, may in first instance bring regular suit.

30. All persons having claims or complaints to prefer of the nature of those made cognizable by Collectors under the provisions of this Regulation, and not wishing to avail themselves of the summary process authorized in that Court, shall be at liberty to institute their claims or complaints, in the first instance, by a regular suit before the local Munsif, or in the Zila[a] Adálat,[a] according as the suit may be cognizable in these Courts respectively.[a]

On appeal against Collector's decision his proceedings to be on record.

31. *First.*—Whenever a regular suit may be instituted in a Civil Court, with a view to set aside or alter a summary judgment passed by a Collector, the proceedings held on the summary inquiry shall be called for by precept from the Court, and filed on the record of the case.

No such appeal cognizable by, or referable to, any Munsif.

Second.—Provided also that no such suit shall be cognizable by, or referable to[a,b] *Munsif;* and all[a] Munsifs shall, in cases tried by them, be held and bound by the decisions passed, and records prepared, by Collectors or other Revenue-officers under the provisions of this Regulation, unless the same shall have been rescinded or altered by the Board, or by the Zila or other similar or superior Court, on a regular suit.[c]

Periodical reports by Collectors to Boards.

32. The Collectors shall transmit to the Boards such periodical reports of the causes decided by, or depending before, them as the Boards may direct, and the Boards will also furnish to Government such abstracts of those reports, and such reports in the cases received and determined by them in appeal, as the Governor General in Council shall from time to time require.

Collectors authorized to refer certain cases to arbitration.

33. *First.*—It shall be competent to Collectors or other officers exercising the powers of Collectors to refer to arbitration any disputes cognizable by them under the provisions of this Regulation, as well as any questions or disputes of any kind respecting land or the tenures therein, or the rights dependent thereon, that may come before them, provided the parties consent to that mode of adjustment, and, on award being made, to cause the same to be executed.

In referring cases to arbitration under the above provision, and in their general proceedings relative to such suits, the Collector[d] shall be competent to vest in the arbitrators the same powers and authority in regard to the sum-

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[a] Certain words in ss. 30 and 31, cl. (2), repealed by Act XVI of 1874, s. 1, have here been omitted.

[b] *Sic*, read "any Munsif."

[c] So much of s. 31, cl (2), as provides that suits of the description therein referred to shall not be cognizable by or referred to any Munsif has been repealed by Act XXV of 1837, s. 2.

[d] Certain words and figures in s. 33, cl. (1), repealed by Act XVI of 1874, s. 1, have here been omitted.

moning and examination of witnesses, and the administration of oaths, and to enforce the orders passed by the arbitrators under such powers, in the same manner as the Courts of Judicature are empowered to do; and all awards made on such references shall, when confirmed by the Collector, have the same force and validity as a regular decree of the Adálat, and shall not be liable to be reversed or altered, unless the award shall be open to impeachment on the ground of corruption or gross partiality, or shall extend beyond the authority given by the submission of the parties; and such ground of impeachment shall be established in a regular suit in the Zila, City or other superior Court wherein the case may be cognizable.

Force of awards passed on such reference.

Second.—In referring any dispute to arbitration the Collector shall be careful to specify in his proceedings, and in the deed of arbitration to be executed by the parties, the precise matter submitted to the arbitrators; and, if the award first made by the arbitrators shall not include all the points submitted to them, or shall be otherwise incomplete, it shall be competent to the Collector again to refer the matter to them, with directions to perfect their award.

Matter of arbitrament to be distinctly specified in Collector's proceedings.

Third.—The pargana kánúngos and talsildárs may be appointed arbitrators in any case referred to arbitration under the above rules; anything in the existing Regulations notwithstanding.[a]

Kánúngos and talsildárs may be employed as arbitrators.

34. *First.*—When a Collector or other officer exercising any of the powers vested in Collectors by the rules of this Regulation, relative to complaints of dispossession or disturbance of the possession of lands or premises, shall learn, either by a reference from the Magistrate, or by a report from any other public officer or otherwise, that any disputes exist within the tract placed under his jurisdiction, relative to any lands, premises, crops, orchards, pasture-grounds, fisheries, wells, watercourses, tanks, reservoirs or the like, likely to terminate in a breach of the peace, it shall and may be lawful for the Collector or other officer aforesaid to require the contending parties to attend in person or by representative at a stated time and place, and, after investigating the case in the presence of the parties or their representatives, or such of them as may attend, or referring it to arbitration as above prescribed, to decide the case in the same manner as if it had been brought before him by the complaint of one of the parties:

Power of Collectors to interfere in cases of disputed possession;

Provided also that, if the fact of previous lawful possession cannot be ascertained, it shall be competent to the Collector, subject to the orders and direction of the Board, to decide on the question of right, and to give possession to one of the contending parties, leaving the other party to contest the

and to give possession to one of the contending parties.

[a] For additional rules respecting arbitration, see Ben. Reg. IX of 1833, ss. 5—10, *infra*, p. 272.

decision by a regular suit in Court; but no such decision shall be passed by any Collector until he shall have instituted a careful enquiry into the fact of possession, and the Board shall be careful to see that this restriction is observed:

Collector may attach disputed lands, &c.

Provided further that in such cases it shall be competent to the Collector to attach the disputed lands, premises, &c., as aforesaid, and to appoint an officer to the management of the same, retaining in deposit the rents and produce or such portion thereof as may remain after discharging any public revenue demandable therefrom, with the charges of management, until one of the contending parties shall be placed in possession.

Reference of disputes by Magistrates to Collector.

Second.[a]—Whenever any Magistrates or Joint Magistrates shall have before them any suit, complaint or information relative to any dispute regarding lands, premises, crops, watercourses or the like, which may appear likely to terminate in a breach of the peace, or which it may otherwise be desirable to bring to an immediate decision, it shall be the duty of such Magistrate or Joint Magistrate, in cases in which the Collector shall be vested with the cognizance of such actions, to certify the case to that officer, and the Collector will then forthwith proceed to investigate and determine the case under the rules above prescribed:

Provided also that, in all cases of forcible dispossession or forcible disturbance of possession, the Collector shall invariably transmit to the Magistrate or Joint Magistrate a copy of the first proceeding held by him in the case, and also a copy of the rúbakári containing his final award.

Collector to encourage arbitration.

Third.—The Collector shall in all such cases use every proper means for inducing the parties to refer their disputes to arbitration, in like manner as the Diwáni Courts are directed to do.

"Board of Revenue." "Board of Commissioners."

35. Whenever the term "Board of Revenue" or "Board of Commissioners" may occur in this or any other Regulation, the same shall be held and considered to apply to any Board, committee or commission, and to any member of such Board, committee or commission, that may be vested by the Governor General in Council with the powers and authority of the Board of Revenue, save and except in so far as may be otherwise specially declared and provided.

Rules regarding Collectors to apply to officer exercising authority of Collector.

In like manner, all rules in this or any other Regulation, whereby any duties or powers may be prescribed for, or vested in, Collectors, shall be held and considered to be equally applicable to any officer exercising the authority of Collector under the orders or with the sanction of the Governor General in Council.

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[a] As to period during which Magistrates shall be guided by the provisions of cl. (2) of s. 34, see Ben. Reg. IV of 1828, s. 2, cl. (4), *infra*, p. 260.

REGULATION XI OF 1822.[a]

Passed on the 22nd November, 1822.

A Regulation ~~for modifying and explaining the existing Regulations relative to the sale of land for the recovery of arrears of revenue~~; for declaring Government not to be liable for any errors or irregularities in the proceedings of the Courts of Justice; and for making further provision for the conduct of the Revenue-officers in certain cases. Rep. XII of 1859

(2 repealed)
+36-35 ~~1 to 35~~. [*Preamble, repeals, public sale of lands for arrears of revenue.*] *Rep. by Act XII of 1841, s. 1.*

36. If a Collector shall at any time, being so instructed by either the Government or the Board, purchase on account of Government an estate exposed to sale for the recovery of arrears of revenue, the rules applicable to the management of ordinary málguzári maháls held khás or farmed shall be considered applicable to such estate, and also to all other estates the property of Government, according as they may be held khás or let in farm. Rules for khás management applied to purchases by Government.

37. [*Collector's power to punish for contempt.*] *Rep. by Act XII of 1841, s. 1.*

38. It is hereby declared and enacted that Government is not and shall not be held liable for any error or irregularity which may have occurred, or shall occur, in any order, proceeding or decree of any Court of Judicature, whether a revenue or other officer of Government may or may not have been, or shall or shall not be, employed in giving effect to the order, proceeding or decree deemed to be erroneous or irregular. Nor shall any officer of Government be held liable for anything done or suffered in conformity with an order, proceeding or decree of a Court as aforesaid; and if any person or persons shall sue Government or any officer of Government for anything done or suffered under an order, proceeding or decree of Court as aforesaid, such person or persons shall be nonsuited, with costs. Government not liable for errors of Courts.

The same principle is and shall be held applicable to all orders, proceedings or decrees made, held or passed by any public officer, in virtue of powers vested in him for the judicial cognizance of any pleas, suits, complaints or informations whatsoever, unless otherwise specially provided.

A.

[a] Ss. 36 and 38 of this Regulation have been declared to apply to the whole of Bengal except the Scheduled Districts by Act XV of 1874, s. 6, and under s. 3 of the Scheduled Districts Act, 1874, they have been declared in force in West Jalpáiguri, and s. 38 in the districts of Hazáribágh, Lohardugga and Manbhoom, Pergunnah Dhalbhoom and the Kolhan—see *infra*, pp. 628 and 653.

~~The whole Regulation has been repealed in the territories to which the Assam Land and Revenue Regulation, 1886, extends—see Reg. I of 1886, s. 2, Assam Supplement.~~

-39 [Saving of Ben. Reg. I of 1821] Rep. by Act XII of 1841

REGULATION VI OF 1823.[a]

Passed on the 10th July, 1823.

A Regulation for authorizing the institution of summary suits to enforce the execution of certain written engagements for the cultivation and delivery of the indigo-plant, and for declaring certain principles in regard to the same.

Preamble.

1. THE poverty of the lower orders in India, and particularly of those employed in agriculture, occasions the general use of borrowed capital for the production of the chief articles of trade and consumption.

The capitalist advances his money, and sometimes the seed likewise, upon a contract to receive the produce of a defined quantity of land, either at a certain fixed price, or at rates to be subsequently determined with reference to the market-price at a specified season; and this system is understood generally to prevail in the Province of Bengal in the cultivation of the plant from which the indigo-dye is extracted.

According to the existing Regulations, if the contracting raiyat should fail to cultivate the land in the manner specified, or, having so cultivated the land, should sell the produce to another, or otherwise defraud his creditor, and fail to execute his contract by delivery of the stipulated article, the person with whom he has so contracted has no other remedy than a regular action for the recovery of the penalty conditioned in the agreement.

It is usual for the Courts of Justice, in decreeing such causes, to award such limited penalty as may, in each instance, appear to be a fair compensation to the person making the advances for the non-employment of his capital.

In the absence, however, of any rule for the regulation of the discretion thus assumed, much confusion has arisen from the conflicting opinions and judgments of the several judicial officers as to the extent of penalty recoverable on agreements of this nature.

Under the rules for imposing a stamp-duty it is provided that all deeds and agreements shall be written on paper bearing a certain stamp, proportioned "to the value of the property transferred or otherwise affected."

But in agreements of the kind above described it is not clear whether the

[a] This Regulation has been declared to apply to the whole of Bengal except the Scheduled Districts by Act XV of 1874, s. 6, and under s. 3 of the Scheduled Districts Act, 1874, it has been declared in force in West Jalpáiguri—see *infra*, p. 628, also in the district of Sylhet—see Appendix to Assam Supplement.

As to procedure by persons, having received advances under a written agreement for the cultivation of indigo, wishing to be released from their engagements, see Ben. Reg. V of 1830, s 5, *infra*, p. 270.

amount of the stamp ought to be fixed with reference to the sum actually advanced, or to the penalty or penalties which may be specified as eventually exigible on the failure of the contractor; and it is of great importance to the parties that this point should be determined so as to prevent the risk of *bonâ fide* deeds being rendered void, in consequence of any inaccuracy in the description of stamp-paper employed in drawing up the agreement.

It seems reasonable, also, that the person who advances seed and capital, or capital only, for the expenses of cultivation on a defined parcel of land, should be considered to possess a lien and interest in the indigo-plant produced on that land, when so stipulated in a written engagement between the parties, and especially in cases in which such written engagement may have been duly registered,* and that it should not be in the power of a raiyat, who has already conditioned for the delivery of the produce of his land to one person, to break the condition by a clandestine and fraudulent transfer of such produce to another.

The system at present in force provides, as above observed, no other remedy for parties injured by this dishonest practice than by a regular action in the Civil Court.

The difficulty and delay of obtaining redress by that course have not unfrequently led to acts of violence, and even to serious affrays, and the more frequent occurrence of such affrays is to be apprehended in consequence of the eager competition which now prevails amongst the indigo-manufacturers in some parts of Bengal, arising from the unusually high price of indigo.

The Governor General in Council has in consequence judged it expedient to declare the principles on which the points above stated shall be settled, and to provide for the more prompt adjustment of disputes, and enforcement of contracts of the nature above specified; and the following rules have accordingly been passed, to take effect in the several districts comprised within the Province of Bengal from the date of their promulgation:—

When persons making advances for cultivation of indigo-plant, on certain land, have lien on, or interest in, its produce.

2. If any person shall have given advances to a raiyat, or other cultivator of the soil, under a written engagement, stipulating for the cultivation of indigo-plant on a portion of land of certain defined limits, and for the delivery of the produce to himself, or at a specified factory or place, such person shall be considered to have a lien or interest in the indigo-plant produced on such land, and shall be entitled to avail himself of the process hereinafter provided for the protection of his interests, and for the due execution of the conditions of the contract.

* Certain words and figures in s. 1 ,repealed by Act XII of 1876, s. 1, have here been omitted.

Such person how to proceed when he has just reason to believe that raiyat will dispose of produce otherwise than stipulated.

3. *First.*—If any person, who may have made advances on conditions of the nature above described, shall have just reason to believe that an individual under engagement with him is evading or is about to evade the execution of his contract, by making away with and disposing of the produce otherwise than as stipulated, or that he has engaged secretly or openly to supply the same to another, it shall be competent to such person to present a petition of complaint to the Zila[a] Judge[a] within whose local jurisdiction the land stipulated to be cultivated with the indigo-plant may be situated, filing with the same the original deed of engagement by which the produce may be assigned and engaged to be delivered to himself or at his factory, and certifying in his petition that such deed was voluntarily and *bonâ fide* executed by the individual complained against.

Summons for attendance of defendant.

Second.—On such petition and original deed of engagement being filed, a summons, or talab chitthi, shall be immediately issued through the názir in the usual form, requiring the individual named in the petition to attend and answer to the complaint, either in person or by an authorized agent, within such specified period as may in each instance appear reasonable, and which period shall in no case exceed twenty days.

Summons how served,

Third.—The officer entrusted with the execution of the process shall also be instructed to affix a copy of the summons in the village kachahri or other place of public resort, and to erect a bamboo on the specific parcel of ground on account of which the claim may have been preferred, and which it shall be the duty of the plaintiff or his agent to point out.

and public notice of claim how given.

By these means sufficient public notice of the claim will be given to enable persons desirous of contesting the plaintiff's right, or of establishing a prior right to the produce of the land, to appear either in person or by an authorized agent before the Court for that purpose, and the failure so to attend, before the summary decision be passed, will be held to bar the claim of any third party founded on any contract for the produce of the land in question, unless it be established by a regular suit.

On non-appearance of defendant or other claimants, evidence to be taken, and case decided *ex parte.*

Fourth.—If the officer serving the process shall not be able to execute it on the person of the defendant, he shall nevertheless publish the claim in the manner above directed, and if the defendant shall not appear to answer to the complaint within the period specified in the summons, and no other claim be preferred in bar of that of the plaintiff, the Judge ~~or other officer~~ shall, after taking evidence to establish the deed and other allegations of the plaintiff, proceed to the adjudication of the claim, in the same manner as if the defendant had personally appeared. Reg. XII 1845

[a] Certain words in s. 3, cl. (1), repealed by Act XVI of 1874, s. 1, have here been omitted.

In what cases award shall be passed, adjudging plaintiff's right to produce.

Fifth.—If the defendant or his authorized agent should attend within the period specified, and should deny the execution of the deed of engagement filed by the complainant, proof of the same shall be taken; and if its voluntary execution be established to the satisfaction of the Court ~~or other tribunal trying the case~~, and no preferable claim be established by a third party, a summary award shall be made, adjudging to the plaintiff the right of receiving the crop according to the terms of the agreement.

Ref. XII of 1859

The same principle shall be applied if the engagement be admitted and no satisfactory reason be shown why the defendant should not be held to the performance of his contract.

If claim be not established, plaintiff to pay costs and compensation to defendant.

Sixth.—If it be proved that the engagement was not duly and voluntarily executed by the defendant, or if it should appear that the proceeding is otherwise litigious and oppressive, and the claim unfounded, or that the plaintiff had no sufficient cause to warrant his application to the Court, the complaint shall be dismissed, and the plaintiff shall be made liable to the payment of costs, and such reasonable sum in addition as may seem to the Judge ~~or other officer trying the case~~ a proper compensation to the defendant for any trouble and annoyance to which he may have been subjected.

Ref. XII of 1859

Notice to third parties in what cases, and their claims how investigated.

Seventh.—If it should appear in the course of the inquiry that the defendant is under engagement for the same land to a third party, notice shall immediately be issued for that party to appear and plead, either in person or by vakil; and if such person or any third party shall, previously to the decision of the case, come forward and produce a similar deed of engagement, stipulating for the produce of the same portion of land, the Judge ~~or other officer trying the case~~ shall, after such summary investigation as may be necessary, determine whether either of the parties have any just claim to the produce of the land, and, if so, which of them may have the prior and better claim; a preference will of course be given to engagements duly registered.[a]

Ref. XII of 1859

The result of such investigation shall be recorded, and a decree passed adjudging the question of right between the parties.

Defendant not to be subjected to unnecessary detention.

Eighth.—No defendant who may attend under the process described in this section shall be confined in jail, or be in any manner detained, longer than may suffice to take his answer to the claim and to obtain from him such further explanations as the nature of the answer may suggest.

In what cases order may issue to de-

Ninth.[b]—If, pending the summary inquiry in the manner above directed, it shall appear that the plant on the ground is in a state fit to be cut, and will be

[a] Certain words and figures in s. 3, cl. (7), repealed by Act XII of 1876, s. 1, have here been omitted.

[b] As to security to be given by person desiring to remove indigo-plant, ordered to be delivered to him under cl. (9) of s. 3, see Act X of 1836, s. 2, *infra*, p. 275.

liver plant to a party, before summary inquiry completed.

injured or destroyed if not cut, it shall in such case be competent to the Judge ~~or other officer trying the case~~ to pass an order for the delivery of the plant to either of the parties, provided that the said party consents and engages to pay to the other claimant (if the summary award should be ultimately in favour of the latter) a specific pecuniary compensation;

Ref X 11 4 1891

the amount of such compensation shall be fixed by the Judge ~~or other person trying the case~~, in communication with the parties, and shall be regulated with reference to the estimated produce of the ground, and to the probable value of such produce when manufactured; and the amount, when so fixed, shall be carefully recorded on the proceedings.[a]

Authority to watch fields and to prevent removal of plant given to parties in certain circumstances.

4. *First.*—Any person in whose favour a summary award shall have been passed for the produce of any defined spot of land shall be entitled to place a watch over the same, and to prevent the cutting and removal of the plant in any manner contrary to the stipulations of his agreement;

and, in the event of any attempt being made to cut or remove the plant, it shall be competent to the person holding the decree to apply to the nearest police-dárogha, and to claim from him the assistance of the police in preventing such removal;

it shall, moreover, be the duty of the police-officers and of all other officers, on such a decree being exhibited, to aid the person in whose favour it may have been passed to the utmost of their power.

Security for rent due to landholders, how provided.

Second.—In order that the foregoing rule may not operate to the prejudice of the landholders, who, by the existing Regulations, are authorized to attach the crops for the realization of rents justly due to them, it is hereby provided that, whenever any manufacturer, who may have obtained an award under the foregoing rules, may cause the plant to be cut and taken away, he shall be held responsible, conjointly with the raiyat, for any arrear of rent which may have been due on account of the specific parcel of ground from which the indigo-plant may have been taken.

Suits by parties injured by breach of contract in regard to cultivation and delivery of indigo-plant.

5. *First.*—In cases in which a raiyat who may have received advances and entered into written agreements for the cultivation and delivery of indigo-plant, in the manner indicated in this Regulation, shall have failed to cultivate the ground specified, or, having cultivated it, shall have failed or refused to complete his engagement, or shall have sold, made away with, or transferred the produce to another person, the party with whom such agreement was first made shall be at liberty to institute, at his option, either a summary or a regular suit.

[a] As to power of Court to examine both plaintiff and defendant, see Act X of 1836, s. 4, *infra*, p. 276.

Second.—If the summary process be adopted and the cause be decided in favour of the plaintiff, the defendant shall be subjected to the payment of the amount of the advances actually received by him, with interest on the same, and the costs of the summary process. Judgment to what extent in summary suits.

Third.—[*Judgments in regular suits.*] *Rep. by Act X of 1836, s. 1.*

Fourth.—If no fraud or dishonest dealing be established, and the failure of a raiyat or other contractor to execute the stipulations of his engagement by the delivery of indigo-plant in the manner stipulated be owing to accident, or to any cause not implying fraud or dishonesty, the penalty to be adjudged against a contractor shall not exceed three times the sum advanced as the consideration for executing the deed, including interest. Penalty in regular suits, where breach of contract not ascribable to fraud or dishonesty.

6. [a]Investigations under this Regulation shall be conducted according to the form and in the manner prescribed for the conduct of suits for arrears of rent[a]: it shall[a] be competent to any person whose claim under a deed of engagement for the cultivation and delivery of indigo-plant may have been set aside,[a] or who may be otherwise dissatisfied with the decision passed on [illegible] investigation under the foregoing provisions, to institute a regular suit for the recovery of the penalty stipulated in the deed of engagement, or for the establishment of any other claim or interest to which he may deem himself entitled. Investigations how and by whom conducted.

7, 8. [*Stamp on contract concerning indigo-plant; such contract may include several individuals and separate transactions.*] *Rep. by Act VII of 1870, s. 2.*

REGULATION VII OF 1823.[c]

Passed on the 30th October, 1823.

A Regulation for prohibiting loans by covenanted civil servants from persons subject to their official authority and influence.

1. WHEREAS by the existing Regulations all covenanted civil servants of the Company, employed in the judicial and revenue departments of the service, are prohibited from lending money, directly or indirectly, to any proprietor or farmer of land, dependant taluqdár, under-farmer or raiyat, or their sureties; Preamble.

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[a] Certain words in s. 6, repealed by Act XVI of 1874, s. 1, have here been omitted.

[b] ~~Sec., read "an".~~

[c] This Regulation has been declared to apply to the whole of Bengal except the Scheduled Districts by Act XV of 1874, s. 6. It has also been declared in force by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2, in the Sonthal Pergunnahs, and under s. 3 of the Scheduled Districts Act, 1874, in West Jalpáiguri, Western Dvárs, the districts of Hazáribágh, Lohardugga and Manbhoom, Pergunnah Dhalbhoom and the Kolhan—see *infra*, pp. 628 and 653; ~~also in the district of Sylhet—see Appendix to Assam Supplement.~~

b-c substituted by act XII of 1891

and whereas it is equally necessary to prohibit the public officers from borrowing money from persons subject to their official authority and influence, the following rules have been enacted by the Governor General in Council, and are to be in force from the date of their promulgation throughout the Provinces immediately subject to this Presidency:

Civil servants prohibited from borrowing money from Native officers under their authority, &c.,

2. *First.*—All covenanted civil servants, in whatever department of the public service they may be employed, are henceforward prohibited, under pain of dismissal from office, from borrowing money from, or in any way incurring debt to, any Native officer under their authority, or under the authority of any of their subordinate functionaries, or from or to the known surety, agent, relation, connection or dependant of any such Native officer, or from or to any person of whom such Native officer may be known to be or to have been the servant, agent, surety or dependant.

and from other persons officially accountable to them.

Second.—In like manner, and under the like penalty, all officers of Government, being covenanted civil servants, are henceforward prohibited from borrowing money from, or in any way incurring debt to, any manager, guardian, executor, amin, sazáwal, gumáshta, farmer, mutawalli or other person, who may in any way be officially accountable to them, or from and to the known surety, agent, relation, connection or dependant of such person.

Third. [*Rules applied to commercial officers.*] *Rep. by Act XVI of 1874, s. 1.*

Certain officers prohibited from incurring debt to zamindárs and others residing, or having property, within their districts.

3. All Judges of Zila[a] Courts, all Magistrates, Joint Magistrates, Registers and Assistants to Magistrates, all Collectors and Deputy Collectors of the land-revenue, all Assistants to such Collectors or other officers, exercising the powers of such Collector, are prohibited, under pain of dismissal from office, from borrowing money from, or in any way incurring debt to, any zamindár, taluqdár, raiyat or other person possessing real property, or residing in, or having a commercial establishment within, the city, district or division to which their authority may extend.

Penalty for lending money to civil servants.

4. All persons are prohibited from lending money, or otherwise becoming in any way creditor, to any officer of Government, being a covenanted civil servant, in contravention of the above rules: and any person lending money, or in any way becoming creditor, to any such public officer in breach of this prohibition shall forfeit to Government a sum equal to the amount for which he shall have so illegally become creditor.

5. [*Report by officers in debt.*] *Rep. by Act XVI of 1874, s. 1.*

Penalty for officers receiving new

6. In like manner, if any covenanted servant, who may be hereafter appointed to any office, shall at the time of such appointment be indebted to

[a] Certain words in s. 3, repealed by Act XVI of 1874, s. 1, have here been omitted.

any person with whom it would be illegal for him to contract a loan, while holding such office, it shall be incumbent on such servant, before entering on the duties of the office, to make known the circumstance to the Governor General in Council; and, failing to do so, he shall be subject to the same penalty as if the debt had been contracted subsequently to his being appointed to the said office.

appointments, if indebted to individuals contrary to above rules, omitting to report.

7. Any Native causing himself to be appointed to any office in opposition to the provisions of Regulation XXI, 1814,[a] as hereinbefore extended, or in any way knowingly accepting office in contravention thereof, shall forfeit to Government a sum equal to ten times the yearly salary or allowances attached to the situation to which he may be appointed.

Penalty on Natives knowingly taking office in contravention of above rules.

8. Suits for the recovery of penalties incurred under this Regulation shall and may be instituted under the special instructions of the Governor General in Council, and shall be conducted by the Superintendent and Remembrancer of Legal Affairs, or by such other officer as Government may nominate for that purpose.

Suits for recovery of penalties.

Such suit shall be instituted in the[b] Court of the division within which the transaction may have taken place, or the lender may reside, or may possess real or personal property.

An appeal shall lie from judgments passed in such cases, in like manner as from other judgments passed in original suits[b]; and the judgments shall be enforced under the provisions for the execution of other decrees of the Civil Courts.

REGULATION VI OF 1825.[c]

Passed on the 4th April, 1825.

A Regulation for rendering more effectual the rules in force relative to supplies and preparations for troops proceeding through the British territories.

1. WHEREAS it is enacted in the first clause of section 3, Regulation XI, 1806, that on receiving the notification mentioned in the preceding section, relative to a body of troops about to proceed, by land or by water, through

Preamble.

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[a] Reg. XXI of 1814 has been repealed by Act XXIX of 1871.

[b] Certain words in s. 8, repealed by Act XVI of 1874, s. 1, have here been omitted.

[c] This Regulation has been declared to apply to the whole of Bengal except the Scheduled Districts by Act XV of 1874, s. 6. It has also been declared in force by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2, in the Sonthal Pergunnahs, and under s. 3 of the Scheduled Districts Act, 1874, in West Jalpáiguri, Western Dwárs, the districts of Hazáribágh, Lohardugga and Manbhoom, Pergunnah Dhalbhoom and the Kolhan—see *infra*, pp. 629 and 653; also in the district of Sylhet—see Appendix to Assam Supplement.

any part of the Company's territories, the Collector of the district shall immediately issue the necessary orders to the landholders, farmers, tahsildárs or other persons in charge of the lands through which the troops are to pass, for providing the supplies required, and for making any requisite preparations of boats or temporary bridges, or otherwise for enabling the troops to cross such rivers or nálás as may intersect their march without impediment or delay; it being at the same time further directed, in the second clause of the section referred to, that the supplies so furnished shall be paid for by the persons receiving the same at the current bázár prices of the place at which they may be provided, and that the expense incurred for crossing the troops and their baggage over rivers or nálás, after being duly ascertained, will be paid by Government;

and whereas experience has shown the necessity of enabling the Collectors or other public officers acting in that capacity to enforce their orders in the cases above-mentioned, by imposing a fine upon any landholder, tahsildár or other person in the possession or management of land, who, after receiving the requisition issued in pursuance of the section above cited, may be proved to have wilfully disobeyed or neglected the same; the Governor General in Council has therefore enacted the following rules, to be in force as soon as promulgated in all the Provinces immediately subject to the Presidency of Fort William:

Penalty for zamindárs not providing supplies for troops, &c.

2. Any landholder, farmer, tahsildár or other person in the possession or management of land, who may have been duly required by a Collector of the land-revenue (or any public officer acting in that capacity), in pursuance of section 3, Regulation XI, 1806, to provide supplies for a body of troops about to proceed by land or water through any part of the British territories, or to make preparations of boats, temporary bridges or otherwise, for enabling the troops to cross rivers or nálás intersecting their march, and after the receipt of such requisition shall wilfully disobey or neglect the same, or shall without sufficient cause fail to exert himself for the due execution of the duty so assigned to him, shall, on proof of such failure, neglect or disobedience, to the satisfaction of the Collector (or other officer acting in that capacity) by whom the order may have been issued, or of his successor in the same office, be liable to a fine proportionate to the defaulter's condition in life and the circumstances of the case, in such amount as the Collector or other officer, with due regard to these considerations, may judge it proper to impose, so that the fine shall not in any case exceed the sum of one thousand siccá rupees.

Collector to make summary inquiry

3. The Collector or other officer acting in that capacity, who may exercise the powers vested in him by this Regulation, shall previously make a summary inquiry, in the presence of the party charged with disobeying or

neglecting the order issued to him, or of his representative, if, on being duly summoned, he shall attend in person or by vakil for that purpose.

If he shall fail to attend, either in person or by vakil, the summary inquiry shall be conducted *ex parte*, and the Collector shall record upon his proceedings the whole of the evidence obtained in proof of the neglect or disobedience for which a fine may be imposed.

Fine how levied.

4. The Collector or other officer who may adjudge a fine under this Regulation shall be competent to levy the amount by the same process as is authorized for the recovery of arrears of the public revenue:

Proviso as to appeal.

Provided that if an appeal be preferred from his decision, within six weeks from the date of it, to the Board of Revenue in whose jurisdiction the district may be situate, and sufficient security be tendered for performing the judgment of the Board upon the appeal, the Collector shall stay the execution of his order for levying the fine imposed by him, until he shall receive the final order of the Board.

Petition of appeal against fine.

5. Appeals from the orders of Collectors or other public officers, adjudging fines under this Regulation, may be preferred[a] either immediately to the proper Board, or through the officer by whom the fine may have been adjudged; and, on admission of the appeal, the whole of the proceedings in the case shall be transmitted to the Board.

Limitation of appeal.

But no such appeal shall be receivable after the expiration of six weeks from the date of the judgment, without proof of sufficient reason for the delay, to the satisfaction of the Board by whom the case may be cognizable.

REGULATION IX OF 1825.[b]

Passed on the 5th May, 1825.

A Regulation for extending the operation of Regulation VII, 1822; for authorizing the Revenue-authorities to let in farm estates under temporary leases, on the default of the málguzárs, or to hold the same khás for a term of years; for modifying and adding to the rules contained in Regulation II, 1819; and for making certain other amendments in the existing Regulations.

Preamble.

1. WHEREAS the provisions of Regulation VII, 1822, are in force only

[a] Certain words in s. 5, repealed by Act XII of 1876, s. 1, have here been omitted.

[b] This Regulation has been declared to apply to the whole of Bengal except the Scheduled Districts by Act XV of 1874, s. 6, and under s. 3 of the Scheduled Districts Act, 1874, it has been declared in force in West Jalpáiguri, the districts of Hazáribágh and Manbhoom and Pergunnah Dhalbhoom—*see infra*, pp 629 and 653.

~~The Regulation has been repealed in the territories to which the Assam Land and Revenue Regulation, 1886, extends—see Reg. I of 1886, s. 2, Assam Supplement.~~

within the Ceded and Conquered Provinces, in the district of Cuttack, and in the pergunnah of Patáspur and its dependencies;

and whereas there are within the other Provinces belonging to this Presidency various mahál and tracts for which a permanent settlement has not yet been concluded, and it appears to be advisable that the Revenue-authorities should be vested, in regard to such mahál and tracts, with the same powers as belong to the like officers within the Ceded and Conquered Provinces;

and whereas the principle of the rules contained in the said Regulation, relative to lands held free of assessment, or at a mukarrari jama under special grants, is equally applicable to such tenures in all parts of the country; and it appears to be likewise expedient to make provision for the occasional exercise, by the Revenue-officers in the Lower Provinces, of the powers specified in the said Regulation, for the summary trial of certain suits between individuals, subject as therein provided to an appeal to the Adalát by a regular suit;

and whereas a frequent recourse to the sale of lands for the recovery of arrears of revenue in districts of which the assessment has not been fixed in perpetuity being inexpedient, it appears to be necessary and proper that the Revenue-authorities should be empowered to let in farm for a term of years the estates of defaulters under temporary leases, or to hold the same khás for the purpose of making a raiyatwár settlement, where that measure may be deemed advisable; and whereas it has appeared to be expedient to modify and to add to the provisions contained in Regulation II, 1819; and whereas the rules prohibiting the collection of sáir duties, and the provision contained in section 39, Regulation IX, 1810,[a] having been considered applicable to several items of siwái collections or cesses levied by the málguzárs and others for local purposes, and according to ancient usage, which it would be injurious to abolish, it appears to be expedient to provide for the continuance of such collections when sanctioned by Government, the following rules have been enacted, to be in force, from the date of their promulgation, within the Provinces belonging to the Presidency of Fort William:

Rep. XII of 1891

Provisions of Regulation VII, 1822, extended to lands not within limits of permanently-settled estates.

2. *First.*—The provisions contained in clause sixth, section 2, and in the thirty-three following sections of Regulation VII, 1822, are hereby extended to all lands (including jágirs, mukarraris and other tenures held free of assessment or at a quit-rent under special grant) not included within the limits of estates for which a permanent settlement has been concluded in the

[a] Ben. Reg. IX of 1810 has been repealed by Act VI of 1863.

manner prescribed by Regulation VIII, 1793, and Regulations II and XXII[a] 1795, as far as the same may be applicable. Rep. XII of 1891

Second.—The said provisions shall likewise be in force in all estates which may now or hereafter be held khás, during the period for which they may be so managed. To be in force in estates held khás;

Third.—The provisions aforesaid shall also apply to the Sundarbans, the hill lands of Bhágalpur, and other extensive forests and wastes, not included within the limits of pergunnahs, mauzas or other revenue divisions, specified at the time of settlement as belonging to the maháls then assessed, as well as to all estates bordering on such forests or wastes. and applicable to Sundarbans, &c.

3. It shall be competent to the Governor General in Council to vest any Collector or other officer exercising the powers of Collector, within the Provinces of Bengal, Behar, Orissa and Benares, with the several powers specified in section 20, Regulation VII, 1822, in the manner specified in the second clause of that section, within such local limits as may, from time to time, appear to be advisable; and the several provisions contained in section 21 and the fourteen following sections shall apply to the several parganas or other local divisions so placed under the jurisdiction of the Collector or other officer aforesaid. Power to vest Collector, &c., with powers specified in section 20, Regulation VII of 1822. Rep. XII of 1891

4. Whenever an arrear of revenue shall accrue on account of any mahál for which an engagement may have been taken by the proprietors or persons recorded as proprietors, not being an estate of which the assessment has been fixed in perpetuity, and the málguzárs shall fail to discharge the same within one month of the date on which it became due, then, if there shall appear to be any objection to the sale of the estate, and the arrears cannot otherwise be recovered (on which points the decision of the Revenue-authorities is to be held conclusive), it shall be competent to the Collector or other officer exercising the powers of Collector, with the sanction of the Board, and subject to the orders of Government, to annul the existing engagements with the málguzárs, and to let the mahál in farm for such period, not exceeding fifteen years, as the Governor General in Council may appoint, or to hold the mahál under khás management for a like period. Procedure when arrear of revenue on account of maháls not permanently assessed is not paid within one month after due date, and objections appear to public sale.

In such cases, if the mahál shall yield a higher jama than that for which the málguzárs may have engaged, the excess shall in the first place be appropriated to the liquidation of the arrear due on account of it, or such portion thereof as the farmer may not have separately agreed to discharge or as may not otherwise have been recovered, and, out of any surplus remaining, the málguzárs shall receive such málikána, not being less than five per cent. nor

[a] Ben. Regs. II and XXII of 1795 have been repealed by Acts XII of 1873 and VIII of 1868, respectively.

more than ten per cent. on the assessment of the last year of their engagement, as the Governor General in Council may direct.

Modification of Regulation II, 1819.

5.[a] *First.*—The following rules are enacted in modification of sections 5, 6, 8, 10, 11, 13, 15, 22 and 30[b] of Regulation II, 1819.

Collector making settlement to issue notification and require appearance of persons holding lands free of assessment;

Second.—Whenever a Collector or other officer exercising the powers of Collector shall visit, or be about to visit, any mahál for the purpose of making a settlement in the manner prescribed in Regulation VII, 1822, it shall be competent to him, by a notification to be stuck up in some conspicuous place within such mahál, and each village thereof, if consisting of several villages, to require all persons holding lands free of assessment or at a fixed jama, within or adjoining to the village or villages in which the lands of such mahál or any part thereof may be situate, to appear before him either in person or by vakil within a reasonable time, not being less than one month from the date of such notification, at such place within the mahál as he may select for holding his office, and to attend him from day to day while he may continue within the mahál, with all sanads or other writings in virtue of which they may possess the lands, or under which the lands may have been, or may be claimed to be, held free of assessment or at fixed jama, together with any evidence they may desire to have taken in support of their claims.

may cause lands to be measured;

Third.—It shall likewise be competent to Collectors and other officers aforesaid, when engaged in the settlement of any mahál under the rules of the Regulation above-mentioned or preparatory thereto, to measure or cause to be measured, without a previous reference to the Board of Revenue, all lands, whether málguzári or lákhiráj, belonging or adjoining to the village or villages in which such mahál or any part thereof may be situated.

to give public notice one day previous to that on which it is intended to hold proceedings.

Fourth.—When the Collector or other officer aforesaid shall have commenced the settlement of any mahál in regard to which he may have issued a notification as aforesaid, and shall propose to hear the claims of persons holding lands free of assessment or at a fixed jama, and to receive their sanads and other writings as aforesaid or any of them, the period fixed in the notification for the attendance of such parties being arrived, he shall, on the day preceding that on which he may intend to hold proceedings in the said cases or any of them, notify such intention by an istahár stuck up in his office and in some place open to the public within the mahál.

Procedure on failure of persons to attend after notice.

Fifth.—If any person holding land free of assessment or at a fixed jama as aforesaid shall fail to attend either in person or by vakil, after notice

[a] For power to appoint special commissioners for the final determination of all cases investigated by Collectors, &c, under s. 5, see Ben. Reg III of 1828, s. 2, *infra*, p. 242.

[b] S. 30 of Ben. Reg. II of 1819 has been repealed by Ben. Act VII of 1862.

being given in the manner above prescribed, the Collector shall be competent to proceed *ex parte* to investigate the title of such party to hold the land in his possession free of assessment, and with the sanction of the Board of Revenue to resume the said lands, if they appear to be held on an invalid title.

Nor shall any person defaulting as above, or neglecting to appear and give answer when required to do so, in the manner prescribed in Regulation II, 1819, be entitled to stay the resumption and assessment of his lands under the rule contained in section 22 of that Regulation:

Provided further that the rule contained in clause second, section 13, Regulation II, 1819, shall be and be held applicable to such persons, as well as to persons who may appear when summoned under the provisions of that Regulation, or in the manner hereinbefore provided.

Collector may either complete investigation of claims or limit proceedings to certain points.

Sixth.—It shall be competent to Collectors and other officers making settlements as aforesaid either to complete the investigation of the claims of persons holding land free of assessment or at a fixed jama, under the rules of the fifteenth and following sections of Regulation II, 1819, with the modifications hereinafter provided, during the progress of the settlement, or to limit their proceedings to the ascertainment of the land actually held under such tenures, and the record of the title-deeds produced by the parties, postponing the further investigation of the case to a future period.

When any Collector or other officer may postpone the investigation of any case as aforesaid, he shall at the same time notify to the party the time and place at which the further investigation is to be held, or, if circumstances prevent him from doing so, he shall, before resuming the inquiry, give the party one month's notice to attend, and, on the failure of any party to attend when so warned, the Collector or other officer aforesaid shall be competent to proceed to try the case *ex parte*, and, with the sanction of the Board, to resume and assess the lands.

What provisions to regulate investigation of claims to lákhiráj lands.

Seventh.—Collectors or other officers who may proceed to investigate claims to lákhiráj lands during the progress of a settlement shall follow the rules of the fifteenth and following sections of Regulation II, 1819, in all cases wherein the parties may attend and deny the liability of their lands to assessment, subject to the modifications hereinafter provided.

Bar to resumption of lands without sanction.

Eighth.—No lands shall be resumed by a Collector, even though the parties may confess that they are liable to assessment, without the sanction of the Board of Revenue, save and except as hereinafter provided; but on such confession duly attested, which will of course supersede the necessity of any further inquiry, it shall be competent to the Board forthwith to direct the lands to be assessed, unless the same be held by village or zamin-

Procedure by Board.

dári servants in lieu of wages, which shall not be resumed without the sanction of Government:

Provided also that in all cases wherein it may appear to the Board that the resumption of lands held free of assessment would occasion serious distress to the holders, it shall be their duty to submit a report of the circumstances to the Government General in Council.

Regulations applied to investigation by Collectors.

Ninth.—The provisions of clause first, section 23, *section 25*[a] and section 28, Regulation VII, 1822, shall be applicable to cases investigated by Collectors under the rules of Regulation II, 1819, or under the provisions of this Regulation.

Stamped paper not necessary.

Tenth.—It shall not be necessary to use stamped paper for the proceedings held or exhibits filed before the Revenue-authorities in cases originating with a Collector or other officer of Government claiming to assess land held free of assessment; but the said authorities are authorized in the said cases, as in all other cases wherein they may exercise judicial powers under the provisions of the existing Regulations, to award to witnesses their reasonable charges, and to levy the same, as well as all costs adjudged by them, by the process in force for the recovery of arrears of the Government revenue.

Award of charges to witnesses.

Procedure for persons claiming to hold lands revenue-free.

Eleventh.—Persons claiming to hold lands exempt from revenue shall, with their petitions of plaint, deliver to the Collector or other officer to whom the same may be preferred all sanads and other writings on which their claim may be founded; and shall insert in the said petition a full specification of the several particulars required to be registered by the rules in force relative to the registry of rent-free tenures, and of the grounds on which their claim is founded.

Investigation

If the claim shall involve only the interests of Government, the Collector shall proceed without delay to investigate the case, giving, however, eight days' previous notice to the party of the day on which he may propose to bring it to a hearing in the mode prescribed for the Civil Courts.

If the claim shall be against any individual singly or jointly with Government, the Collector shall serve him with a notice containing a statement of the demand, and requiring his attendance in person or by vakil duly authorized, within the period of one month, with any papers or evidence he may desire to produce in denial of the claim; and, on the appearance of such defendant, the Collector, after allowing him to inspect and examine the claimant's petition of plaint, and the writings therein referred to, shall call upon

[a] So much of s. 5, cl. 9, as provides that s. 25 of Reg. VII of 1822 shall be applicable to cases investigated by Collectors under the rules of Reg. II of 1819 or under this Regulation, has been repealed in Bengal by Act XX of 1865, s. 3.

him to deliver, within the period of seven days, a statement of the objections he may desire to urge against the claim.

Pleadings.

In such cases no other pleadings shall be required from the parties than a plaint and answer, but it shall and may be lawful for Collectors to receive and record such subsidiary pleadings as may appear requisite for the elucidation of the merits of the claim.

Collectors shall proceed to investigate every such case as soon as possible after the answer of the defendant shall be received; giving, however, as aforesaid, eight days' previous notice to the parties of the day on which he may propose to bring it to a hearing:

Summary proceedings.

Provided that, in cases wherein the parties concerned or their authorized representatives shall desire or consent (the same being signified in a written petition or ikrárnáma to be filed with the proceedings) to have an immediate decision, whether the case shall originate in a claim on behalf of Government, or in the suit of an individual, and whether the proceedings of the Collector shall be held under the provisions of Regulation II, 1819, or under those of this or any other Regulation touching the matter, it shall be competent to the Collector to proceed forthwith to the investigation and decision of the case, without issuing any formal summons or notice.

Procedure as to land appearing to belong to Government and no person *bonâ fide* in possession.

Twelfth.—Whenever a Collector or other officer exercising the powers of Collector shall be of opinion that any tract of land belongs to Government, and that no individual has *bonâ fide* possession thereof, it shall be competent to him, by a notification to be stuck up in his kachahri, in the Zila Court and in the kachahri of the kánúngo, Munsif or thánádár to whose jurisdiction the land in question may belong or adjoin, to require all claimants to the same to appear before him within a reasonable time, to be fixed by the Board of Revenue, not being less than six weeks from the date of such notification; and, on the appearance of such claimants, to proceed to investigate their claims in the manner prescribed by Regulation II, 1819, for investigations relative to the liability of lands to be assessed as herein modified:

Provided further that, if the Collector or other officer aforesaid shall decide that none of the claimants have *bonâ fide* possession of the lands in question, and his decision shall be affirmed by the Board of Revenue, the said lands shall be at the disposal of Government until the same shall be adjudged to be private property by a decree of Court on a regular suit:

Provided also that all such suits, if preferred by one of the claimants before the Collector, shall be dismissed with costs, unless instituted within six weeks of the date on which the Board may affirm the decision of that officer, and that the rule contained in clause second, section 13, Regulation

II, 1819, shall be strictly applied to such suits: nor shall any such suit be admitted on the part of any person who may not have appeared before the Collector pursuant to notice, unless he shall be able to show good and sufficient cause for his non-appearance and shall apply for permission to sue within six weeks of his being informed of the Board's decision:

Provided further that, if the party shall not prosecute his suit within six weeks of being permitted to sue, the suit shall be dismissed with costs.

Power to vest Collector, deputed to hold local inquiry within mahál, with same powers in regard to lands held free of assessment in villages adjoining mahál.

6. It shall be competent to the Governor General in Council, by an order in Council, to vest any Collector or other officer who may be deputed to hold a local inquiry within the limits of any mahál with the same powers and authority in regard to all lands held free of assessment within or adjoining to the village or villages in which the lands of such mahál or any part thereof may be situated, and for the investigation of all claims touching such lands as by the foregoing provisions are vested in Collectors making settlements in the manner prescribed by Regulation VII, 1822; and also from time to time to depute Collectors or other officers aforesaid for the purpose of ascertaining, recording or investigating the said claims in the manner above prescribed.

Lands held free of assessment to be specified in proceedings.

7. The particulars of all lands held free of assessment within all villages and mahúls of which the settlement may be made under the provisions of Regulation VII, 1822, shall be fully recorded in the proceedings of the Collector or other officer making the settlement.

Saving of certain Regulations.

8. Nothing contained in Regulation II, 1819, or in any other Regulation in force, shall affect, or be considered to affect, the provisions contained in section 10, Regulation XIX, 1793, ~~section 11, Regulation XXXI, 1803,~~[a] and ~~in the corresponding enactments applicable to Benares and the Conquered Provinces,~~ relative to grants illegally made subsequently to the dates specified in the said rules respectively: and in all cases in which it shall be established to the satisfaction of the Revenue-authorities that any lands now held free of assessment were subject to the payment of the revenue at the dates aforesaid or subsequently thereto, and that they have not been thereafter exempted from the payment of revenue under the authority of the Governor General in Council, nor adjudged to be exempted from payment of revenue under a regular decree of Court, it shall and may be lawful for the said authorities forthwith to resume and assess the said lands; save and except in cases wherein the revenue of the same may belong to a zamindár, taluqdár or other málguzár with whom a permanent settlement has been concluded; nor shall the provisions of section 22, Regulation II, 1819, apply to such cases.

[a] Ben. Regs. XXXI of 1803 has been repealed by Act XIX of 1873

9. ~~It is hereby declared and enacted that the rules relative to the abolition~~ of sáir duties, and the provision contained in section 39, Regulation IX, 1810,[a] are not and shall not be held to be applicable to any item of siwái collections or cess levied by málguzárs and others according to ancient custom, which has been or shall be sanctioned by a Collector or other superior Revenue-authority, not being a tax on the transport, export or import of goods or merchandize, or other tax or duty specifically prohibited: but after the settlement of any village or mahál shall have been made in the manner specified in section 9, Regulation VII, 1822, the rules and provisions aforesaid shall be applicable to all cesses and collections not sanctioned in the manner specified in that section.

Rules relative to the abolition of the sáir duties, &c., applicable to what cesses.

Reg. I. X II of 1851

REGULATION XI OF 1825.[b]

Passed on the 26th May, 1825.

A Regulation for declaring the rules to be observed in determining claims to lands gained by alluvion, or by dereliction of a river or the sea.

1. IN consequence of the frequent changes which take place in the channel of the principal rivers that intersect the Provinces immediately subject to the Presidency of Fort William, and the shifting of the sands which lie in the beds of those rivers, chars or small islands are often thrown up by alluvion in the midst of the stream, or near one of the banks, and large portions of land are carried away by an encroachment of the river on one side, whilst accessions of land are at the same time, or in subsequent years, gained by dereliction of the water on the opposite side; similar instances of alluvion, encroachment and dereliction also sometimes occur on the sea-coast which borders the southern and south-eastern limits of Bengal.

Preamble.

The lands gained from the rivers or sea by the means above-mentioned are a frequent source of contention and affray, and although the law and custom of the country have established rules applicable to such cases, these rules not being generally known, the Courts of Justice have sometimes found it difficult to determine the rights of litigant parties claiming chars or other lands gained in the manner above described.

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[a] ~~Ben. Reg. IX of 1810 has been repealed by Act VI of 1863.~~

[b] This Regulation has been declared to apply to the whole of Bengal except the Scheduled Districts by Act XV of 1874, s. 6. It has also been declared in force by Reg III of 1872, s. 3, as amended by Reg. III of 1886, s. 2, in the Sonthal Pergunnahs, and under s 3 of the Scheduled Districts Act, 1874, in West Jalpáiguri and the Terai—see *infra*, p. 629; ~~also in the district of Sylhet—see Appendix to Assam Supplement.~~

Q 2

As to assessment of new lands, see act IX of 1847, infra

The Court of Sadr Diwáni Adálat, with a view to ascertain the legal provisions of the Muhammadan and Hindu laws on this subject, called for reports from their law officers of each persuasion, and on consideration of the reports furnished by the law officers in consequence, as well as of the decisions which have been passed by the Court of Sadr Diwáni Adálat in cases brought before them in appeal which involved the rights of claimants to lands gained by alluvion, or by dereliction of rivers or the sea, the Governor General in Council has deemed it proper to enact the following rules for the general information of individuals as well as for the guidance of the Courts of Judicature; to be in force, as soon as promulgated, throughout the whole of the Provinces subject to the Presidency of Fort William:—

Claims and disputes as to alluvial lands to be decided by usage when clearly recognized and established.

2. Whenever any clear and definite usage of shikast paiwast respecting the disjunction and junction of land by the encroachment or recess of a river may have been immemorially established, for determining the rights of the proprietors of two or more contiguous estates divided by a river (such as that the main channel of the river dividing the estates shall be the constant boundary between them, whatever changes may take place in the course of the river, by encroachment on one side and accession on the other), the usage so established shall govern the decision of all claims and disputes relative to alluvial land between the parties whose estates may be liable to such usage.

Where no usage established, claims how decided.

3. Where there may be no local usage of the nature referred to in the preceding section, the general rules declared in the following section shall be applied to the determination of all claims and disputes relative to lands gained by alluvion or by dereliction either of a river or the sea.

Lands gained by gradual accession from recess of river or sea.

4. *First.*—When land may be gained by gradual accession, whether from the recess of a river or of the sea, it shall be considered an increment to the tenure of the person to whose land or estate it is thus annexed, whether such land or estate be held immediately from Government by a zamindár or other superior landholder, or as a subordinate tenure, by any description of undertenant whatever:

Extent of interest in increment of person in possession.

Provided that the increment of land thus obtained shall not entitle the person in possession of the estate or tenure to which the land may be annexed to a right of property or permanent interest therein beyond that possessed by him in the estate or tenure to which the land may be annexed, and shall not in any case be understood to exempt the holder of it from the payment to Government of any assessment for the public revenue to which it may be liable under the provisions of Regulation II, 1819, or of any other Regulation in force.

[a]Nor, if annexed to a subordinate tenure held under a superior landholder, shall the under-tenant, whether a khudkást raiyat, holding a maurúsi istimrári tenure at a fixed rate of rent per bighá, or any other description of under-tenant liable by his engagements, or by established usage, to an increase of rent for the land annexed to his tenure by alluvion, be considered exempt from the payment of any increase of rent to which he may be justly liable.[a]

When river by sudden change of course intersects estate.

Second.—The above rule shall not be considered applicable to cases in which a river, by a sudden change of its course, may break through and intersect an estate, without any gradual encroachment, or may by the violence of stream separate a considerable piece of land from one estate, and join it to another estate, without destroying the identity and preventing the recognition of the land so removed.

In such cases the land, on being clearly recognized, shall remain the property of its original owner.

Chars thrown up in navigable river.

Third.—When a char or island may be thrown up in a large navigable river (the bed of which is not the property of an individual), or in the sea, and the channel of the river or sea between such island and the shore may not be fordable, it shall, according to established usage, be at the disposal of Government.

Property therein when channel fordable.

But if the channel between such island and the shore be fordable at any season of the year, it shall be considered an accession to the land tenure or tenures of the person or persons whose estate or estates may be most contiguous to it, subject to the several provisions specified in the first clause of this section, with respect to increment of land by gradual accession.

Chars, &c., thrown up in small shallow rivers.

Fourth.—In small and shallow rivers, the beds of which, with the jalkar right of fishery, may have been heretofore recognized as the property of individuals, any sand-bank or char that may be thrown up shall, as hitherto, belong to the proprietor of the bed of the river, subject to the provisions stated in the first clause of the present section.

Disputes relative to lands gained by alluvion or by dereliction not provided for by Regulation.

Fifth.—In all other cases, namely, in all cases of claims and disputes respecting land gained by alluvion or by dereliction of a river or the sea, which are not specifically provided for by the rules contained in this Regulation, the Courts of Justice, in deciding upon such claims and disputes, shall be guided by the best evidence they may be able to obtain of established local usage, if there be any applicable to the case, or, if not, by general principles of equity and justice.

Encroach-

5. Nothing in this Regulation shall be construed to justify any encroach-

[a] This para. of s. 4, cl. (1), has been repealed in Bengal (except Calcutta, Orissa and the Scheduled Districts) by Act VIII of 1885, s 2.

ments on beds of navigable rivers and other obstructions.

ments by individuals on the beds or channels of navigable rivers, or to prevent Zila and City Magistrates or any other officers of Government who may be duly empowered for that purpose from removing obstacles which appear to interfere with the safe and customary navigation of such rivers, or which shall in any respects obstruct the passage of boats by tracking on the banks of such rivers, or otherwise.

REGULATION XIII OF 1825.[a]

Passed on the 7th July, 1825.

A Regulation to maintain the settlement made for certain lands held exempt from the payment of revenue by kánúngos in the Province of Behar; and to provide for the future settlement of such lands, as well as of the lands composing other resumed lákhiráj tenures, with the present occupants, when so directed by Government.

Preamble.

1. WHEREAS it was enacted by section 5, Regulation II of 1816,[b] that the revenue of lands held by kánúngos, generally in the Province of Behar, in virtue of their offices, should be liable to resumption; and accordingly, under that law, various resumptions of land so held took place, and the parties to whom the zamindári interest in the same appeared to belong were admitted to engage for the Government revenue; but, on the consideration of the proceedings held under the provisions of the above rule, it appeared to the Governor General in Council to be improper wholly to deprive the kánúngos or their representatives of the advantages derived from such lands, and enjoyed by them for a long course of years; and it was accordingly resolved by Government, on the 14th February, 1822, that in cases where the lands had been occupied and managed by the kánúngos or their representatives, and the rents received by them, they should be replaced in possession of such lands, and a settlement made with them on the principle prescribed by clause second, section 8, Regulation XIX of 1793, namely, the revenue to be paid to Government to be equal to one-half of the annual produce (or rental) of the lands, calculated according to the rates at which other lands in the pargana of a similar

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[a] This Regulation has been declared to apply to the whole of Bengal except the Scheduled Districts by Act XV of 1874, s. 6. It has also been declared in force by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2, in the Sonthal Pergunnahs, and under s. 3 of the Scheduled Districts Act, 1874, in West Jalpáiguri, the districts of Hazáribágh and Manbhoom and Pergunnah Dhalbhoom—see *infra*, pp. 622 and 653.

~~The Regulation has been repealed in the territories to which the Assam Land and Revenue Regulation, 1886, extends—see~~ Reg. I of 1886, s. 2, Assam Supplement.

[b] Ben. Reg. II of 1816 has been repealed by Act VIII of 1868.

description may be assessed, securing to the proprietors of the soil such málikána or other allowance as they might have received prior to the resumption of the official minhái tenure;

and whereas the existing laws relative to the settlement of resumed lákhiráj tenures are not properly applicable to the case, and it appears to be expedient expressly to provide for the maintenance by the Courts of Judicature of the arrangement above described, in order that the kánúngo minháidárs may be secured in the possession (subject to the quit-rent fixed by Government) of the lands, rents and produce heretofore possessed by them;

and whereas it is desirable to provide for the settlement, on the same principle, of any lands that may be resumed under the corresponding rules relating to kánúngos and their official tenures in other parts of the country;

and whereas it appears to be generally expedient to make a distinct provision for securing to the holders of lákhiráj lands resumed by the officers of Government, and assessed on the principle prescribed in clause second, section 8, Regulation XIX, 1793, the benefits which that law was designed to bestow, and to declare the competency of Government, in other cases, to continue the persons who have heretofore occupied lands free of assessment, or their representatives, in the possession of the same, notwithstanding such lands being made subject to assessment, the following rules have been enacted for these purposes respectively, to be in force throughout the territories subject to the Presidency of Fort William from the date of the promulgation of this Regulation :—

Power to continue minháidárs and their heirs in possession of resumed lands, heretofore held as lákhiráj by kánúngos.

2. In case of lákhiráj tenures resumed under the provisions of Regulation ~~IV, 1808,~~[a] ~~Regulations II[b] and~~ V, 1816, or any other Regulation in force, relative to lands held by kánúngos by virtue of their offices, where the minhái or lákhiráj tenure, and the right of property in the land, are vested in distinct parties, it shall be competent to the Governor General in Council, by instruction to the Revenue Board or other authority empowered to make the resumption, to continue the minháidárs and their heirs in possession and management of such lands, subject to such assessment as he shall judge it proper to direct; and the parties claiming the zamindári interest or other proprietary right in such maháls shall not be entitled to any land-rent, produce or profit beyond what they may have enjoyed up to the period of the resumption of the tenure, or would have been entitled to receive, in the event of Government having confirmed the same in perpetuity, free of assessment.

[a] Ben. Reg. IV of 1808 has been repealed by Act XIX of 1873.
[b] Ben. Reg. II of 1816 has been repealed by Act VIII of 1868.

Persons, consequently, claiming to be máliks of the said lands, who, during the continuance of the lákhiráj tenure, had not possession of the same, whether they received a málikána allowance or otherwise, shall not disturb the possession of the minháidárs or their heirs and representatives, in any case wherein the Governor General in Council may have sanctioned such possession; and any suit preferred by such persons in a Court of Judicature to recover possession, contrary to the intent and meaning of this rule, shall be dismissed with costs:

Provided, however, that in all cases of the nature above-mentioned, wherein the zamindár or other proprietor of the land may have received málikána or other proprietary due during the existence of the lákhiráj tenure, he shall continue to receive the same, notwithstanding the resumption of the lákhiráj, in like manner as if such resumption had not taken place.

Tenures of minháidárs so situated declared hereditary and transferable.

3. The tenures of the minháidárs which have been confirmed to them with the sanction of Government by the arrangement referred to in the preamble of this Regulation, or which may be so confirmed in conformity with the preceding section, are declared to be hereditary and transferable; but, should they escheat to Government, the parties possessing a zamindári interest or other proprietary right in the lands will be admitted to engage for the revenue subject to a fresh assessment to be adjusted on the actual assets under the general Regulations.

Foregoing sections applied to certain lákhiráj resumptions.

4. The principles of sections 2 and 3 of this Regulation shall be considered applicable to all cases of lákhiráj resumption under the general Regulations in force, which may come within the favourable rule of assessment contained in the second clause of section 8, Regulation XIX, 1793, in the Provinces of Bengal, Behar and Orissa; ~~or the second clause of section 8, Regulation XLI, 1795,* in the Province of Benares~~, it being the evident intention of the rule in question that it should be applied to persons who had been long in possession of the lákhiráj tenures made subject to assessment by ~~the Regulations~~ above cited, and whom it appeared equitable, in consideration of their long possession, to leave in occupancy of the lands composing their respective tenures, at a moderate assessment, not exceeding a moiety of the annual rent-produce.

Modification of enactments relative to settlement of resumed jágír,

5. In modification of the existing rules contained in ~~Regulations~~ XXXVII, 1793, ~~XLII, 1795,* and XXXVI, 1803,~~ or any other Regulation in force, relative to the settlement of resumed jágír, altamghá, madadmásh, aima and other grants of land termed bádsháhi or royal; and generally in qualification

* Ben. Regs. XLI and XLII of 1795 and XXXVI of 1803 have been repealed by Act XIX of 1873.

and explanation of all the rules in force relative to the resumption of lákhiráj tenures, and the future assessment of lands composing the same, it is hereby further declared that whenever such tenures may be pronounced invalid or extinct by a Revenue Board or other authority empowered to investigate the lákhiráj title in such tenures, under the provisions of Regulation II, 1819, or of any other Regulation in force, it shall be competent to the Governor General in Council, on a special report of the circumstances of the case, when it may appear just and proper in consideration of the long possession of the actual occupant of the land or of his ancestors, to direct his continuance in possession, though not the zamindár, taluqdár or other málik of the land, on his engagement for the future assessment on such terms as may be prescribed by Government, and in such cases the whole of the provisions contained in sections 2 and 3 of this Regulation shall be deemed applicable, and be maintained by the Courts of Judicature accordingly.

altamghá, madadmáash, aima or other bádsháhi grants, and to resumption of lákhiráj tenures.

REGULATION XIV OF 1825.[a]

Passed on the 14th July, 1825.

A Regulation to declare the extent of the authority possessed by the Revenue-authorities, subordinate to the Governor General in Council, in the confirmation of lákhiráj tenures; to define the principles to be followed in determining on the force and validity of grants made by persons exercising authority in different quarters previously to the acquisition of the country by the British Government; and to provide for the due application of the general laws and regulations respecting lands held free of assessment, to the territory ceded by Govind Ráo to the British Government, and annexed to the zila of Bundelkhand, under the provisions of Regulation II, 1818.[b]

1. WHEREAS doubts have arisen as to the extent of the authority possessed Preamble.

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[a] This Regulation has been declared to apply to the whole of Bengal except the Scheduled Districts by Act XV of 1874, s. 6. It has also been declared in force by Reg. of III 1872, s 3, as amended by Reg III of 1886, s. 2, in the Santhal Pergunnahs, and under s. 3 of the Scheduled Districts Act, 1874, in West Jalpáiguri, the districts of Hazáribágh and Manbhoom and Pergunnah Dhalbhoom—see *infra*, pp 629 and 653.

~~The Regulation has been repealed in the territories to which the Assam Land and Revenue Regulation, 1886, extends—see Reg. I of 1886, s 2, Assam Supplement.~~

[b] Ben. Reg. II of 1818 has been repealed by Act XV of 1874.

by the Revenue-authorities subordinate to the Governor General in Council in regard to the confirmation of lákhiráj tenures, which it is expedient to remove; and it is also desirable further to define the principles to be followed in determining on the force and validity of grants made by persons exercising authority in different quarters, previously to the acquisition of the country by the British Government; and it is necessary to make provision for the due application of the general rules in force relative to lákhiráj tenures, to the territory ceded by Govind Ráo to the British Government, and annexed to the zila of Bundelkhand, under the provisions of Regulation II, 1818[a];

and whereas it is enacted by clause first, section 26, Regulation II, 1819, that in suits instituted in the Zila Courts to contest the decisions passed by the Revenue Boards under the provisions of that Regulation, a special appeal only shall lie in the Provincial Courts, and that in like manner in cases decided in the first instance by a Provincial Court, excepting cases ultimately appealable to the King in Council, an appeal shall be received by the Sadr Diwáni Adálat on special grounds only; and it appears to be expedient that the above restriction should not apply to cases wherein the decision of the Court may be opposed to the judgment of the Board of Revenue or other authority exercising the powers of that Board, but that such cases should be open to a regular appeal,

the following rules have been enacted, in addition to, and in modification of, the provisions of Regulations XIX and XXXVII, 1793, Regulations XLI[b] and XLII,[b] 1795, Regulations XXXI[b] and XXXVI,[b] 1803, of such parts of Regulations VIII[b] and XII, 1805, as refer to lákhiráj lands, and of Regulation II, 1819; to be in force from the date of their promulgation throughout the Provinces immediately subject to the Presidency of Fort William:—

Lákhiraj tenures under what circumstances alone valid.

2. It is hereby declared and enacted that the power of granting lákhiráj tenures, namely, tenures of land exempt from the public assessment, either for life or in perpetuity, as well as of confirming such tenures excepting by a regular judgment passed after a judicial inquiry, belongs, and always has belonged, exclusively to the Supreme Government; and no act, order or decision granting or confirming any tenure as aforesaid within any of the territories subordinate to this Presidency, after the annexation of such territories to the British dominions, shall be held valid, unless the same shall have been done, issued or passed by or under the immediate directions of the Governor General in

[a] Ben. Reg. II of 1818 has been repealed by Act XV of 1874.
[b] Ben Regs XLI and XLII of 1795, XXXI and XXXVI of 1803 and VIII of 1805 have been repealed by Act XIX of 1873.

Council, or by some officer expressly authorized by Government to grant or confirm such tenures, or with respect to the confirmation of grants duly authorized by some competent Court of Judicature in a suit regularly tried and decided by it, or by one of the Revenue Boards acting in a judicial capacity, under the rules of Regulation VIII, 1811,[a] whilst that Regulation (rescinded by section 2 of Regulation II, 1819) was in force; and subsequently under the rules of Regulation II, 1819, or any other Regulation expressly empowering the Revenue Boards, after full investigation of claims to exemption from assessment under the general rules applicable to lákhiráj tenures, to pronounce a decision against the assessment, to be considered final, except on proof, in a Court of Judicature, of fraud or collusion in the previous inquiry:

Provided also that no resolution or order passed by the Lieutenant-Governor and the Board of Commissioners, in the Ceded and Conquered Provinces, the Board of Revenue or other authority exercising the powers of that Board, whereby the right of Government to assess any lákhiráj lands may have been relinquished or postponed, save and except decisions regularly passed according to the rules above cited, shall operate to the prejudice of Government, or be held to bar the Revenue-authorities from proceeding for the recovery of public dues under the provisions of Regulation II, 1819, or any other rules in force relative to the resumption of lákhiráj tenures held under invalid grants.

Trial of validity of grants.

3. *First.*—The following principles are to be observed in determining the force and validity of grants made by persons exercising authority in the Provinces subordinate to this Presidency, previously to the acquisition of the country by the British Government.

Lákhiráj tenures, of which uninterrupted possession has been held, declared valid, &c.

Second.—Lákhiráj tenures of which uninterrupted possession shall have been held exempt from assessment at and subsequently to the periods undermentioned shall be, and be considered to be, valid, without evidence to any formal grant or confirmation of the same, and shall be continued to heirs in cases in which it may be clearly shown, from the nature and denomination of the tenure, that it is hereditary according to the ancient usage of the country, namely, the 12th August, 1765, if the tenure be in Bengal, Behar or Orissa (excepting Cuttack); the 14th October, 1719, if the tenure be in Cuttack, including Patáspur or its dependencies; the 1st July, 1775, if the tenure be in the Province of Benares; the 10th November, 1789, if the tenure be in the Provinces ceded by the Nawáb Wazir in November, 1809; the 1st January, 1792, if in any of the Provinces ceded by Daolat Ráo Scindia and the Peishwa, under the treaties of the 16th and 30th December, 1800; the 1st November, 1805, if in

[a] Ben. Reg. VIII of 1811 has been repealed by Ben. Reg. II of 1819.

the pergunnah of Khanda or other territory ceded by Náná Govind Ráo on the 1st November, 1817:

Provided, however, that the above rule shall not apply to cases of derivative tenures, wherein it may appear that the tenure is derived from a jágirdár or other person, who, at any of the periods above specified, held lands free of assessment under a temporary or conditional tenure.

In all such cases the parcels of the land so held shall follow the condition of the principal tenure, and, if that be resumable, will consequently be liable to resumption.

Proof of title to hold or recover lákhirájj tenure to rest on claimants.

Third.—The proof of possession in the cases provided for by the preceding clause, and (in the case of persons not the original grantees) of the hereditary nature of the tenure, shall be on the parties claiming to hold or recover the lákhirájj tenure; the general principle being that the ruling Power is entitled to a certain proportion of the produce of every bighá of land, excepting so far as it shall have transferred, relinquished or compounded its right thereto; and all parties claiming the benefit of such exemptions being bound to establish their respective claims and titles.

One or more successions before periods specified not to establish title of inheritance.

Fourth.—Provided also that, although one or more successions to any tenure as aforesaid may have taken place before the periods specified in the second clause, the fact shall not be taken to establish a title of inheritance, unless the tenure be clearly of an hereditary nature, or unless the right of inheritance therein shall have been admitted by the Governor General in Council on a reference made to Government according to the rules in force applicable to such cases.

Potentates and authorities recognizable by Courts, &c.

Fifth.—The Courts of Judicature and Revenue-authorities shall not recognise any potentate or person as having been vested with the supreme power, within any part of the Provinces subordinate to this Presidency, save and except the Kings of Delhi, the Súbahdárs of Bengal, Behar and Orissa, and the several authorities specified in Regulation XLII, 1795,[a] Regulation XXXVI, 1803,[a] and Regulations VIII[a] and XII, 1805; and with respect to the territory ceded by Náná Govind Ráo, save and except Rájá Chattarsál and his predecessors, previously to the Mahrátha conquest of that territory in the year 1802 of the Sambat era (corresponding with 1730 of the Christian era), and subsequently thereto His Highness the Peishwa, who then obtained the supreme authority in the territory referred to.

[a] Ben. Regs. XLII of 1795, XXXVI of 1803 and VIII of 1805 have been repealed by Act XIX of 1873.

If in any case grants shall be produced purporting to have been made or confirmed by any other person than as aforesaid, alleged to have been vested with the supreme power for the time being, and it shall appear to the Court or other authority investigating the same that the plea is well founded, the Court or other authority before whom the case may be depending shall, before passing any decision thereupon, refer the point to the Governor General in Council and be guided by his determination.

Conditions requisite to establish validity of grants by such potentates, &c.

Sixth.—To the validity of grants made or confirmed by the Kings of Delhi or by any of the Rulers aforesaid, it is and shall be held to be necessary—

1st, that they were made or confirmed within the period during which the person granting or confirming the same possessed and exercised supreme power within the territory in which the lands specified in the grant are situate:

2nd, that the grantee actually and *boná fide* obtained possession of the land granted within the said period:

3rd, that the grant was not subsequently resumed by the officers or the orders of the Government for the time being previously to the acquisition of the country by the British Government, or, if so resumed, that the competence of the officer to resume shall have been expressly disallowed by the Governor General in Council.

Periods at which provinces subordinate to Presidency of Fort William were acquired by British Government.

Seventh.—The following shall be held, for the purposes specified in this Regulation, to be the periods at which the several Provinces subordinate to this Presidency were acquired by the British Government, namely, for Bengal, Behar and Orissa (excepting Cuttack), the 12th August, 1765; for Benares, the 1st July, 1775; for the Provinces ceded by the Nawáb Wazir, the 1st January, 1801; for the Provinces ceded by Daolat Ráo Scindia and the Peishwa, the 1st January, 1803; for the Province of Cuttack, Patáspur and its dependencies, the 14th October, 1803; for the pergunnah Khanda and the other territory ceded by Náná Govind Ráo, the 1st November, 1817.

Conditions necessary to validity of grants not made or confirmed by Supreme Power.

Eighth.—To the validity of grants not made or confirmed by the Supreme Power (excepting tenures of long possession described in the second clause of this section), it shall be held to be necessary—

1st, that they were made or confirmed by some authority which the Governor General in Council shall have expressly declared competent to make or confirm the same;

2nd, that the grantee actually and *boná fide* obtained possession of the

land granted, and that the revenue of the land was not subsequently resumed by competent authority.

Decision of questions regarding lákhiráj tenures, resumed previously to acquisition of country by Government.

Ninth.—Provided also that in cases in which any lákhiráj tenure may have been resumed previously to the acquisition of the country by the British Government, the determination of the question whether the officer by whom or by whose order the resumption may have been made was legally competent to do so shall, in all cases wherein it may be necessary to determine this question, rest with the Governor General in Council.

Moreover, all questions touching the validity of grants made or confirmed by any officer subordinate to the supreme Power, or the legal effect of resumption by any such officer which may not have been expressly provided for by the Regulations, and which may be material to the decision of any suit or inquiry, shall be referred by the Courts of Judicature or other authorities making the investigation to the Governor General in Council for determination, unless the powers and competence of the officer in question shall have been previously determined by Government.

Saving of lands not devoted to religious or charitable uses.

4. Nothing in this Regulation shall be construed to affect the provisions contained in Regulation XIX, 1793, Regulation XLI, 1795,[a] Regulation XXXI, 1803,[a] and Regulation XII, 1805, relative to lands not exceeding ten bighás of which the produce is *bonâ fide* appropriated to religious or charitable uses.

5. [*Revision of decisions passed before commencement of Regulation.*] *Rep. by Act XII of 1873, s. 1.*

Modification of Regulation II, 1819, section 26.

6. In modification of the rules contained in section 26, Regulation II, 1819, it is hereby enacted that in cases wherein a Zila Court shall annul or alter a judgment passed by the Board of Revenue or other authority exercising the powers of that Board, under the provisions of the above-mentioned Regulation, a regular appeal shall lie.[b]

The provisions of the above-mentioned section shall however still be applicable to cases in which the Zila[b] Courts may maintain the decisions of the Revenue Boards or other authorities exercising the powers of these Boards.[c]

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[a] Ben. Reg XLI of 1795 and XXXI of 1803 have been repealed by Act XIX of 1873.

[b] Certain words in s. 6, repealed by Act XVI of 1874, s 1, have here been omitted.

[c] As to saving of appeals under s. 6, notwithstanding the provisions of cl. (3) of s. 10 of Ben. Reg III of 1828, see cl. (4), *ibid*, *infra*, p. 240.

REGULATION III OF 1827.[a]

Passed on the 1st November, 1827.

A Regulation for modifying and amending the rules in force relative to the law officers and ministerial Native officers of the Courts of Judicature, who may be guilty of corruption or extortion.

1—4. [*Preamble; amendments; no fine to be awarded in Civil Court for corruption or extortion; criminal prosecution not to depend on civil action.*] *Rep. by Act XVI of 1874, s. 1.*

Record of criminal conviction sufficient for compelling refund of property corruptly taken or extorted.

5. From and after the date of this Regulation it shall not be necessary for any party from whom money or property may have been corruptly taken or extorted to institute a civil action for the recovery thereof; but, on proof of the charge in a criminal prosecution for those offences, a certified copy of the conviction by a Court of Circuit, or the Nizámat Adálat, shall be received as sufficient authority for enforcing the refund of the amount or value so taken, with interest, on application to that effect being preferred by the aggrieved party to the Civil Court.[b]

6. [*Amount of embezzlement to be paid in first instance from public treasury.*] *Rep. by Act XVI of 1874, s. 1.*

REGULATION V OF 1827.[c]

Passed on the 27th December, 1827.

A Regulation for modifying the rules at present in force for the management of estates under attachment by orders of the Courts of Justice in certain cases.

Preamble.

1. WHEREAS it is expedient in all cases of the attachment of landed property under orders of the Courts of Justice that the management of the estate attached should be placed under the superintendence of the Collectors of land-revenue, the following rules have been enacted by the Governor

[a] This Regulation has been declared to apply to the whole of Bengal except the Scheduled Districts by Act XV of 1874, s. 6, and under s. 3 of the Scheduled Districts Act, 1874, it has been declared in force in West Jalpáiguri, the districts of Hazáribágh, Lohardugga and Manbhoom and Pergunnah Dhalbhoom—see *infra*, pp. 629 and 654; ~~also in the district of Sylhet—see Appendix to Assam Supplement~~.

[b] The rest of s. 5, repealed by Act XII of 1876, s. 1, has been omitted.

[c] This Regulation has been declared to apply to the whole of Bengal except the Scheduled Districts by Act XV of 1874, s. 6, and under s. 3 of the Scheduled Districts Act, 1874, it has been declared in force in West Jalpáiguri, the districts of Hazáribágh, Lohardugga and Manbhoom and Pergunnah Dhalbhoom—see *infra*, pp. 629 and 654; ~~also in the district of Sylhet—see Appendix to Assam Supplement~~.

General in Council, to be in force from the date of their promulgation throughout the territories immediately subject to the Presidency of Fort William :—

Modification of Regulations regarding management of estates under attachment.

2. The rules contained in sections 5 and 6, Regulation V, 1799, and clauses 5 and 6, section 16, Regulation III, 1803,[a, b] regarding the administration and management of estates under orders of the Zila[a] Courts, are hereby declared subject to the following modifications :—

Issue of precept for holding estates under attachment and for appointing managers.

3. Whenever the Zila[a] Courts may deem it just and proper, under the provisions of the several Regulations above-mentioned, to provide for the administration or management of landed property, the Court shall issue a precept to the Collector of land-revenue of the district wherein the estate may be situated, directing him to hold the estate in attachment, and to appoint a person for the due care and management of the estate, under good and adequate security for the faithful discharge of the trust, in a sum proportionate to the extent thereof :

Provided, however, that if any person holding an interest in the estate shall be dissatisfied with the selection made by the Collector of the individual to perform the duty in question, or with the conduct of the manager at any time after his appointment; it shall be competent to such person to represent his objections to the Board of Revenue, and the Board will either confirm the manager chosen, or order the Collector to appoint another person, as on consideration of the circumstances of the case may appear reasonable and proper.

Precept to State property included in attachment.

4. The precept of the Zila[a] Court above-mentioned shall state specifically the property to be included in the attachment, and the attachment shall not be withdrawn without a further precept from the Court to that effect.

REGULATION III OF 1828.[c]

Passed on the 12th June, 1828.

A Regulation for the appointment of special Commissioners for the more speedy hearing and determination of appeals from the decisions of the Revenue-authorities in regard to lands or rents occupied or collected by individuals, without payment of the revenue demandable by Government, under the general law of the country, and for otherwise more effectually securing the realization of the public dues.

Preamble.

1. By the provisions of Regulation II, 1819, and other Regulations

[a] Certain words in ss. 2, 3 and 4, repealed by Act XVI of 1874, s. 1, have here been omitted.
[b] Ben. Reg. III of 1803 has been repealed by Act XIX of 1873.
[c] This Regulation has been declared to apply to the whole of Bengal except the Scheduled Districts by Act XV of 1874, s. 6, and under s. 3 of the Scheduled Districts Act, 1874, it has been declared in force in West Jalpáiguri—see *infra*, p. 629.
The Regulation has been repealed in the territories to which the Assam Land and Revenue Regulation, 1886, extends—see Reg. I of 1886, s. 2, Assam Supplement.

subsequently enacted, Collectors and other local Revenue-officers throughout the Provinces subordinate to this Presidency have been empowered, with the sanction of the Boards of Revenue, to institute inquiries with a view to the resumption and assessment of all lands held free of rent, or at an inadequate rent, under invalid tenures;

Commissioners have likewise from time to time been appointed under the orders of Government to maintain and enforce the public rights in different districts, in which extensive tracts of country, unowned and unoccupied at the time of the perpetual settlement, are now liable to assessment, or, being still waste, belong to the State.

It was at the same time provided in the Regulations above adverted to that, in all cases in which the Revenue-officers might declare the lands of any individual liable to assessment, the party might contest the decision by suit in one of the ordinary Courts of Justice, such provision having been made with the intention that the decisions of the Collectors and the Boards should be held and considered to be judicial awards, and that the suits preferred to the ordinary Courts, being of the nature of appeals, should be speedily disposed of.

It has, however, appeared that, partly from the number of the cases in question, partly from the practice of the Courts in treating the appeals made to them as original suits, and partly from other causes, little or no progress has been made towards the settlement of the matter, and heavy arrears of such cases have accumulated in several of the Courts and Boards of Revenue; that the existing laws have not been adequate to secure for the Revenue-authorities the information required, and that consequently, while, on the one hand, a large amount of revenue continues to be usurped without any just pretence, and the improvement of the country is hindered by frivolous and litigious claims, on the other hand, the owners of valid tenures are disquieted and disturbed.

To remedy the aforesaid evils it appears to be expedient to appoint special Commissioners competent to determine finally all cases of the nature above described, within such local limits as may from time to time be deemed necessary, to declare the intent and meaning of the existing Regulations in regard to suits preferred to the ordinary Courts relative to such cases; and to provide that all successions to the possession of land or rent, free of assessment, whether by sale, gift or inheritance, shall be regularly reported to the Revenue-authorities.

It has likewise appeared to be expedient and proper to make provision for the immediate settlement of the limits of the Sundarbans, as ascertained by careful local inquiry, conducted by the Commissioner specially appointed to

the duty, and the surveyors under his authority; and also to declare the intent and meaning of certain parts of the existing Regulations, in regard to which doubts have arisen.

The following rules have accordingly been enacted, to be in force from the date of their promulgation throughout the Provinces immediately subordinate to the Presidency of Fort William:—

Appointment of special Commissioners.

2. *First.*—It shall be competent to the Governor General in Council, by an order in Council, to appoint one or more special Commissioners, as may be judged expedient, for the final determination of all cases which have been or may be investigated by Collectors, Deputy Collectors or other officers exercising in that behalf the powers of Collectors, under the rules of section 5 and the fifteen subsequent sections of Regulation II, 1819, and of section 5, Regulation IX, 1825, subject to the provisions hereinafter enacted; and the Commissioner or Commissioners so appointed shall similarly determine all suits which may be brought to contest the demand of the Revenue-officers, on the plea that the annual rent or assessment upon which the demand is founded exceeds what the party is bound to pay, and which may consequently involve the question of a permanent increase or reduction of the public revenue.

Jurisdiction of Commissioners.

Second.—The jurisdiction of the special Commissioner or Commissioners appointed as above shall extend to such districts or portions of districts, and for such periods, as the Governor General in Council may direct; and it shall be competent to the Governor General in Council to fix and appoint the functions to be discharged by each Commissioner, and to assign to him such local jurisdiction as may from time to time appear proper.

Publication of jurisdiction.

Third.—Whenever any Commissioner or Commissioners shall be vested by the orders of the Governor General in Council with jurisdiction in any district or other division, notice thereof shall be published by proclamation at the kachahris of the Judge and Collector of such district, and shall likewise be communicated[a] to the[a] Zila Courts concerned.

Suspension of powers of Courts in regard to cases cognizable by Commissioners.

Fourth.—Whenever any of the said Courts shall be apprized in the manner above specified of the appointment of a Commissioner or Commissioners to exercise the powers specified in this Regulation within any zila or other local division, the powers heretofore vested in, and exercised by, the said Courts in regard to all cases belonging to such local division of the nature declared cognizable by the special Commissioners shall be suspended, and the said Courts shall immediately stay all proceedings in such cases, until they shall be apprized that the local jurisdiction of the Commissioner or Commis-

[a] Certain words in s. 2, cl. (3), repealed by Act XVI of 1874, s. 1, have here been omitted.

sioners has ceased, and further the said Courts shall forthwith transmit to the Commissioner the records of all cases of the above nature which may be depending before them:

Provided also that no appeal shall lie to any of the established Courts of Judicature from any decision which has been or shall be passed by the Board of Revenue or a Collector, in regard to the revenue of any lands lying within such local division, previously to or pending the appointment of a special Commissioner.

Appeal to Commissioners from decisions of Board of Revenue.

Fifth.—In all cases which have been decided by the Boards of Revenue before the jurisdiction of a Commissioner may have been declared to extend to the district in which they have arisen, and in which the parties would, but for the extension of such jurisdiction, have been entitled to appeal to the ordinary Courts of Justice, under the rules contained in sections 22 and 24 of Regulation II, 1819, and section 5, Regulation IX, 1825, an appeal shall lie to such special Commissioner, and the cases shall be heard and determined in the same manner as appeals preferred to that authority from the decisions of Collectors under this Regulation.

Notice to Boards of appointment of Commissioner.

Sixth.—Notice of the appointment of a Commissioner to exercise the powers specified in this Regulation in any district or other local division shall likewise be communicated to the Boards of Revenue or other Board exercising control over the Revenue-officers of such district or division, and on the receipt of such communication the powers vested in the said Boards under the provisions of Regulation II, 1819, and Regulation IX, 1825 (with exception to the powers specified in section 4 of the last-mentioned Regulation), shall be suspended within the said district or division; and the said Board shall immediately stay all proceedings in cases thereunto belonging which may be depending before them under the provisions of the above Regulations, as well as in all other cases relating to the said district or division of the nature described in the preamble to this Regulation, and shall forthwith transmit to the Commissioner the records of all such cases.

Vakils' fees.

Seventh.—When any suit may be transferred by a Court of Justice or a Board of Revenue to a special Commissioner under the provisions of this Regulation, the Commissioner or Commissioners by whom such suit shall be decided shall determine the amount of remuneration to be assigned to the vakils who may have been employed by the parties in conducting such suit before the Court or Board from which it may be transferred, and generally how any costs previously incurred shall be borne;

all such sums which may have been deposited in such Court or Board on account of vakils' fees shall be kept in deposit until the case is decided, when

the amount awarded to the vakils by the Commissioners shall be paid to them.

Government may invest Commissioner with powers of Board.

3. Whenever the jurisdiction of a Commissioner shall be declared by the orders of Government to extend to any district or other local division, it shall be competent to the Governor General in Council to invest such Commissioner with any or all of the powers vested by the Regulations in force in the Boards of Revenue.

Institution of inquiries by Collector or other local officer.

4. *First.*—When the jurisdiction of a Commissioner shall have been established in any particular district, it shall be competent to the Collector or other local Revenue-officer of such district to institute the inquiries specified in Regulation II, 1819, and Regulation IX, 1825, in regard to any lands which he may have reason to believe are held free of assessment, or at an inadequate jama under an invalid tenure, or which being unoccupied he may consider to be public property, without previously applying for the sanction of the Board of Revenue.

In all other respects, however, he is to proceed to the investigation of the case in the manner provided for in Regulation II, 1819, and Regulation IX, 1825, accordingly as the one or the other may apply to the case; and, having closed his proceedings, he shall record[a] his judgment as to the liability of the lands to assessment or otherwise, in the manner directed in section 20 of the first-mentioned Regulation, and such decision shall have the force and effect of a decree, and a copy thereof on plain paper shall as soon as possible be delivered to the party concerned.

Appeals from decision of Collector declaring lands liable to assessment.

Second.—If the decision of a Collector shall declare the lands liable to assessment, or shall adjudge them to be the property of Government, it shall not be necessary for him to transmit his proceedings to the Board of Revenue or to the special Commissioner, but the party against whom such decision is passed shall be at liberty to appeal from the same to the special Commissioner within two months from the date on which a copy of the decision may have been tendered to him by the Collector; but it shall be competent to the Commissioner to admit an appeal, after the expiration of the above period, on sufficient cause being shown why it was not sooner preferred:

Provided also that petitions of appeal may, at the option of the party, be either presented to the special Commissioner or delivered to the Collector for transmission to that authority.

Collector may give effect to

Third.—It shall and may be lawful for the Collector, whether an appeal be

[a] Certain words in s. 4, cl. (1), repealed by Act XVI of 1874, s. 1, have here been omitted.

filed or not, immediately to carry into effect his decision by attaching and assessing the land, reporting his proceedings for the information and orders of the Board, or of the Commissioner if vested with the powers of the Board :

decision, whether appeal be filed or not.

Provided, however, that in cases appealed to the Commissioner it shall be competent to that authority to stay execution of the Collector's decree, and to cause the attachment of the land to be suspended or withdrawn, on due security being tendered by the appellant for the payment, from the date of the Collector's decision, of the revenue which may ultimately be assessed on the land.

Commissioner may stay execution of Collector's decree in cases appealed.

Fourth.—If the Collector shall decide against the assessment, he shall report his proceedings, together with the whole record of the case, to the Board of Revenue, who are to take the case into their consideration, and, if they shall be of opinion that the grounds assigned by the Collector for considering the lands exempt from assessment are insufficient or invalid, it shall be competent to the Board, within one year from the date on which they may receive the Collector's proceedings, to transfer the case for revision and final orders to the special Commissioner, who shall issue a notice requiring the attendance of the party in whose favour the Collector may have decided ; and, should such party neglect, after having been duly summoned, to attend and defend the appeal before the Commissioner, it shall be competent to the Commissioner to hear and decide the case *ex parte*.

Procedure if Collector decides against assessment.

Fifth.—In all cases decided by a special Commissioner or Commissioners, whether on appeal by individuals from decision of the Collector, or on reference from the Board of Revenue under the above rule, or in cases transferred from any of the ordinary Courts of Judicature, the decision passed by the special Commissioner or Commissioners, who by warrant from the Governor General in Council and the provisions of this Regulation may be competent to pass the same, shall be final, save and except in cases which, if decided by the Court of Sadr Diwáni Adálat, would be appealable to His Majesty the King in Council : in such cases a similar appeal will lie from the decision of the special Commissioner or Commissioners, under the same rules and restrictions as are applicable to appeals from the decisions of the aforesaid Court[a] :

Decisions of special Commissioner final.

Exception.

Provided, however, that such decisions shall be immediately executed and enforced, notwithstanding the institution of the appeal : provided also that it shall be competent to any Commissioner to review any judgment passed by him, on sufficient cause being shown why a new trial should be granted, the

[a] As to the applicability of the rules and restrictions referred to in clause (5) of s 4 to appeals under the Code of Civil Procedure from the decisions of the High Court of Judicature at Fort William, see Act XIV of 1882, s 615.

rules in the existing Regulations regarding a review of judgment being held applicable to such cases.

Judgment of single Commissioner coinciding with decision of Collector or Board when final.

Sixth.—In all cases in which the judgment of a single special Commissioner shall coincide with the decision passed by a Collector or by a Board of Revenue, or by a Court of Justice, in cases which have been decided by an inferior Court, and, after having been appealed to a higher, have been transferred under the provisions of this Regulation to a special Commissioner, the decision of such single Commissioner shall be final, subject to the provisions of the foregoing clause.

Procedure in case of difference of opinion.

But if, on hearing any case of the nature above specified, a single Commissioner shall be of opinion that the last award made in such case ought to be reversed or altered, he shall record his opinion to that effect, and the case shall then be laid before another special Commissioner appointed under this Regulation, and, should he disagree in opinion as to the decision of the case, to a third Commissioner, so that the final award may be made by the concurrent voices of at least two special Commissioners:

Provided that it shall be competent to the Governor General in Council, on the occasion of appointing a special Commissioner to exercise the powers specified in this Regulation within certain local limits, to determine at the same time to what other special Commissioner a reference shall be made by him in cases of difference of opinion.

Regulation not to extend to cases specified in section 30, Regulation II, 1819, except when they involve rights of Government to assess lands.

5. It is hereby declared and enacted that the provisions of this Regulation are not intended and shall not be construed to extend to cases of the nature specified in the several clauses of section 30, Regulation II, 1819, save and except when such cases may involve the rights of Government to subject to assessment all or any portion of the lands in respect to which the action may be brought.

In cases of the above description, in which the Government may be a party, whether instituted in the first instance before the Collector or referred to him by the Court, the Collector shall proceed to investigate and decide in the mode prescribed in the preceding section of this Regulation, the several clauses of which shall be held to apply to such suits; and all other cases falling within the provision of section 30, Regulation II, 1819, in which the Government is not itself a party, shall be heard and determined under the rules therein enacted and the subsequent modifications of them declared in section 5, Regulation IX, 1825.

Proceedings of Commissioners how regulated.

6. *First.*—The special Commissioners appointed under this Regulation shall be guided by such rules as may be prescribed by the Governor General in Council in regard to the forms of proceeding, the nature and number of the pleadings, the mode in which they are to be conducted, the paper (stamped or

unstamped) to be used, the fees to be levied, and, generally, the rules of practice to be followed.

Commissioners may prescribe rules for guidance of Collectors, &c.

Second.—The special Commissioners shall likewise be competent to issue such instructions to the Collectors of the districts over which their jurisdiction extends, in regard to their proceedings relative to cases investigated under the rules of Regulation II, 1819, and Regulation IX, 1825, as may appear requisite for their guidance and conducive to the ends of justice, and, when it may appear necessary or proper, to refer cases back to those officers for further trial.

Enforcement of process of Commissioner.

Third.—All processes issued by a Commissioner shall be enforced in the same manner, and under the same penalties for disobedience or resistance, as processes of the ordinary Courts of Justice; and all the powers possessed by those Courts, in regard to contempts, the summoning and examination of witnesses and the administration of oaths, shall be vested in the Commissioners, whose decision shall in such matters be final.

Execution of decisions of Commissioners.

Fourth.—The special Commissioners shall be competent to require the Zila Courts to carry into execution, when necessary, the decisions which they may pass, and the Zila Courts shall give effect to such decisions in the same manner as they are required to execute the decrees passed by[a] the Court of Sadr Diwáni Adálat.

Rules applied to Native officers attached to Commissioners.

Fifth.—The several rules and provisions contained in the existing Regulations relative to Native officers belonging to the Zila Courts will be applicable to the Native officers employed by the special Commissioners, except in cases in which the Commissioners may, with the sanction of Government, otherwise determine.

Sixth, Seventh.—[*Punishment of persons guilty of perjury; commitment of same to Court of Circuit.*] *Rep. by Act XVI of 1874, s. 1.*

Courts and Collectors to aid Commissioners.

7. *First.*—It shall be the duty of the Courts and of the Revenue-officers to afford the Commissioners every aid and information that they may require, to serve all processes issued and required to be served by the Commissioners in like manner as if they were issued by themselves, to prepare and transmit to the Commissioners such lists of cases decided or pending before them as they may see occasion for, and to furnish all papers and documents which the Commissioners may desire to examine.

Commissioners may require Zila

Second.—It shall likewise be competent to the Commissioners to require the Zila Courts or the Collectors to examine witnesses, either on written inter-

[a] Certain words in s. 6, cl. (4), repealed by Act XII of 1876, s. 1, have here been omitted.

Courts and Collectors to examine witnesses and furnish information.

rogatories or otherwise, in regard to any points the investigation of which it may appear necessary to conduct in that manner, and generally to inquire and report on particular points upon which further information is desirable, in the same manner as the said Courts are required to report in pursuance of precepts issued to them by the[a] Court of Sadr Diwáni Adálat.

Commissioners to furnish statements and reports.

8. The Special Commissioners shall furnish to Government periodically such statements and reports as the Governor General in Council may prescribe.

9. [*Oaths to be taken by special Commissioners.*] *Rep. by Act XII of 1873, s. 1.*

Regulation II, 1819, modified and extended.

10. *First.*—The following rules are hereby enacted in modification and extension of the provisions contained in sections 22, 23, 24, Regulation II, 1819.

Decisions of Boards of Revenue under section 21 of Regulation II, 1819, to be executed notwithstanding suit to contest them.

Second.—All decisions which have been or may be passed by the Boards of Revenue under the rules in section 21, Regulation II, 1819, declaring the liability to assessment of lands, whether the same be situated in districts to which the jurisdiction of a special Commissioner has been extended or in any other district, shall be carried into immediate execution by the Collectors or other local Revenue-officers of such district, notwithstanding that the parties against whom such decisions may have been or may be passed shall have sued or shall sue to contest the Board's decision in one of the established Courts of Justice or to the Commissioner appointed under this Regulation, and such parties shall not be permitted to retain possession of the lands unless they enter into an engagement to pay the assessment which may be fixed upon them; such assessment to be collected under the general rules for the realization of the Government revenue from farmers thereof.

Consequence of declining to pay assessment.

And if any person against whom the Board may have decided shall decline to pay the assessment fixed on the lands, he shall be forthwith dispossessed, and such arrangements shall be made for the collection of the Government revenue as the Collector, under the orders of the Board, may see fit to adopt: but in the event of a final decision being passed, exempting the tenure of any such person from assessment, the nett collections made on account of Government shall be refunded, with interest thereon at the rate of six per cent. per annum.

Trial of suits to contest Board's deci-

Third.—All suits which may be instituted in the established Courts of Justice under the provisions of sections 22 and 24, Regulation II, 1819, and

[a] Certain words in s. 7, cl. (2), repealed by Act XII of 1876, s. 1, have here been omitted.

section 5, Regulation IX, 1825, to contest decisions of the Boards of Revenue, shall, when the jurisdiction of the above Courts is not barred by the operation of this Regulation, be heard and determined in the same manner as regular appeals, and no further pleadings shall be required or received in such cases than the objections of the appellant to the decision of the Board, and the reply to those objections on the part of the Revenue-authorities; sion in cases in which jurisdiction of Courts is not barred.

the said Courts shall likewise, on the admission of an appeal, invariably call for the original record of the Board's proceedings in each case, and shall then require the parties to file their pleadings as above provided; but it shall not be competent to the Courts to take further evidence, oral or documentary, unless it shall appear that such evidence was tendered by the party adducing it to the Collector or the Board, and was then rejected on insufficient grounds, or that such evidence is essential to the ascertainment of some fact material to the issue, which may not have been fully inquired into in the course of the previous investigation.

Fourth.—Provided, however, and it is hereby enacted, that nothing contained in the preceding clause shall be construed to bar the admission of a further appeal on the part of the Revenue-authorities to[a] the Court of Sadr Diwáni Adálat, from decisions passed in the first instance in the Zila[a] Courts, in cases of the nature described and specially provided for in section 6, Regulation XIV, 1825, nor the admission by those tribunals of the special appeal on the application of the party opposed to Government under the rules in section 26, Regulation II, 1819. Proviso as to admission of appeals from interior to superior Courts.

Fifth.—Appeals filed in the established Courts of Civil Judicature to contest decisions of the Board of Revenue shall be kept on a file or register distinct from that on which other suits before those Courts are entered.[a] Appeals from Board's decisions to be kept distinct.

11. *First.* [*Provisions for securing information of transfers of land held free of assessment.*] *Rep. by Act XVI of 1874, s. 1.*

Second.—Persons succeeding to the possession of any lands held free of assessment or held on a mukarrari jama, on the decease of a former occupant, or by gift, purchase or other assignment or transfer of proprietary right, are hereby required immediately to notify the same to the Collector or other officer exercising the powers of Collector within the district in which the land may be situated, and any omission to notify such succession or transfer for a period of six months or more shall subject such land to immediate attachment by the Revenue-officers. Persons succeeding to possession of lands revenue-free or on mukarrari jama, to report to Collector.

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[a] Certain words in clauses (4) and (5) of s. 10, repealed by Act XVI of 1874, s. 1, have here been omitted.

Nor shall land so attached be restored to the party who may claim to hold it, though the validity of the tenure be subsequently established to the satisfaction of the Revenue-authorities, until such party shall have paid to Government a fine equal to one year's rent, and, if the revenue derivable from the land be not awarded to be the right of the individual, the party shall further be required to refund the amount of the collections made by him, with interest thereon at the rate of twelve per cent per annum: provided also that the said rent and collections shall be estimated according to the assessment demandable from the raiyats at the time of attachment.

Investigation of claims to recover possession of attached lands.

Third.—Where the lands of any individual may be attached under the above rule, any claim which he may prefer to recover possession thereof, and to hold the same free of assessment or on a mukarrari jama, shall be investigated and determined by the Collector under the provisions of Regulation II, 1819, as modified by the present Regulation and by those which have been intermediately enacted.

Unregistered tenures liable to resumption, unless declared hereditary by decree of competent authority.

12. All tenures which may not have been duly registered in the manner prescribed by the Regulations, or of which the specification contained in the register shall not purport the same to be held under an hereditary title or as a perpetual endowment, shall be and be held to have been liable to resumption, unless the same may have been declared hereditary by a final decree of a competent Court of Judicature, on the demise of the persons who were in possession at the dates respectively of Regulations XIX and XXXVII, 1793, Regulations XLI[a] and XLII,[a] 1795, Regulations XXXI[a] and XXXVI,[a] 1803, Regulations VIII[a] and XII, 1805, according as the lands may be within the districts to which those Regulations are severally applicable, or in other parts of the country at the date at which the same came into the possession of the British Government.

And Collectors and other officers exercising the powers of Collector shall accordingly proceed to assess, and, if necessary, attach, all lands liable to resumption as above, in the same manner and with the same powers as they are authorized and required to proceed in the case of a lapsed farm, anything in the existing Regulations to the contrary notwithstanding:

Provided further that the nature and extent of the interests vested in the holders of lands and rents exempted from assessment shall, when the title-deeds are forthcoming, and their authenticity recognized, be construed and defined with reference to the whole of the matter contained in such deeds, and not

[a] Ben. Regs. XLI and XLII of 1795, XXXI and XXXVI of 1803, and VIII of 1805 have been repealed by Act XIX of 1873.

merely by the designation of the tenure. Jágirs consequently shall not be held to be life-tenures in cases in which the recital of the grant shall be such as clearly to convey an hereditary interest: nor shall any tenures, howsoever designated, be considered to be hereditary and perpetual if the grants under which they are held shall not convey, in express terms, an hereditary or perpetual interest.

Sundarbans declared property of State, and Government competent to make grants and to take measures for its clearance.

13. *First.*—The uninhabited tract known by the name of the Sundarbans has ever been, and is hereby declared still to be, the property of the State: the same not having been alienated or assigned to zamindárs, or included in any way in the arrangements of the perpetual settlement, it shall therefore be competent to the Governor General in Council to make, as heretofore, grants, assignments and leases of any part of the said Sundarbans, and to take such measures for the clearance and cultivation of the tract as he may deem proper and expedient.

Grantees' right.

All parties to whom such grants, leases or assignments shall have been made, or to whom they may hereafter be made, shall be entitled to hold or to take possession of any tract of Sundarban jungle so granted or assigned without question or opposition, and all public officers shall aid and assist the same:

Suit to contest such right.

Provided also that if any zamindár, taluqdár or other sadr málguzár or any other person owning and occupying or collecting the rent or revenue of cultivated land in the neighbourhood of the land so granted, leased or assigned shall sue in any Court of Adálat or before a special Commissioner under this Regulation to contest the validity of the title or the right of possession of any such lessee or grantee under such grant, lease or assignment, then if the land aforesaid shall be proved to be, or to have been, or be not denied to be or to have been, when so granted, leased or assigned, within the limit of the unoccupied jungle so named and described, the suit shall be dismissed with costs.

Compensation to zamindár claiming valuable interest.

Provided, however, that if any zamindár, taluqdár or other person aforesaid shall claim to possess a valuable interest in any part of the Sundarbans, by virtue of authority to collect money or other valuable thing from the persons engaged in gathering wax, or cutting wood or obtaining other jungle products of the tract, or by virtue of any other similar privilege or advantage which may have been recognised as part of the assets on which the assessed revenue of his zamindári, taluqdári or other tenure was adjusted at the time of farming the perpetual settlement of the district, and the collection of which was not subsequently stopped and due compensation made under the rules relative to the collection of sáir revenue or other similar arrangement, such zamindár, taluqdár or proprietor shall be entitled to receive from Government compensa-

tion for any diminution in the value of such interest and advantage consequent on the arrangements adopted for the cultivation of the Sundarbans; the same being duly established after an investigation conducted under the rules of Regulation II, 1819, as modified by this Regulation.

Determination of boundaries.

Second.—The boundary of the Sundarban jungle shall be laid down by accurate survey, as determined on the spot by the Commissioner of the Sundarbans; and any zamindár, taluqdár or party interested shall be entitled, on application made through the Commissioner, and on payment of the charge of preparing the same, to receive a copy of the survey-map or of any part of the same, with the boundary marked there as so determined, together with a copy of the Commissioner's proceedings on the subject.

Right of zamindár to copy of map and proceedings.

Petition for investigation by party aggrieved by demarcation.

Any party deeming his right injured by the demarcation so laid down shall be at liberty, at any time within three months from the date of the Commissioner's proceeding fixing the same (which proceeding shall always be held and published on the spot), to contest the same by petition to a special Commissioner under this Regulation having local jurisdiction for the time being (or, if no such jurisdiction exist, to the ordinary Courts of Justice by which the case is cognizable), praying further investigation:

Plea admissible.

Provided that no plea of objection against the line of demarcation laid down shall be heard or admitted, excepting only such as shall declare and offer proof that at the time of survey a specific quantity of land, or land with defined limits, was in the occupation of the petitioner cleared and under cultivation, which, by the line of demarcation adopted, is placed within the Sundarban tract belonging to Government.

Every such application so made shall be regarded as a claim to hold the tract claimed free of the public assessment, and shall be investigated and decided under the rules of Regulation II, 1819, as modified by this Regulation.

Rules of practice for regulating the proceedings of the special Commissioners appointed under Regulation III, 1828.

Passed on the 21st August, 1828.

Sarishta Registry of cases transferred to Commissioners, and received in appeal.

1. THE several cases which may be received for trial by each Commissioner, whether transferred by the Courts of Justice or Boards of Revenue, or received on appeal by parties, shall be regularly numbered and entered on separate file-books, according to the following classification, namely:—

one file for cases of lákhiráj lands or tenures claimed to be held free of all rent;

one file for cases of claims to hold land at mukarrari, or fixed, jama, or to resist the assessment of land on the plea that it is included in settled estates, such as hálábád, nauábád, tanfir and patitábádi lands;

one file for new chars and jungle lands claimed as the absolute property, and at the disposal, of Government.

Each file to be kept according to the form (A) annexed.

Each Commissioner to entertain muháfiz daftar, who is responsible for records.

2. Each Commissioner is to entertain a muháfiz daftar, who is to have special charge of the records of cases to be heard and determined, for the safe custody of which that officer shall be held responsible, and all officers who may be employed by the Commissioners in the execution of the duty confided to them shall be considered as exclusively under their control.

Admission of appeals: Notice to parties in suits transferred from Courts.

3. Whenever the record of any cause may be transferred by a Court of Justice to a special Commissioner, under the rule contained in the fourth clause of section 2, Regulation III, 1828, the Commissioner shall in a Persian rúbakári acknowledge the receipt of the record, and request the Court to intimate the transfer to all parties connected with the suit who may have appeared before it.

The Commissioner shall further issue a notice according to the form in use in the Courts of Justice, to be served through the Zila or City Court within the jurisdiction of which the lands may be situated, requiring their attendance for the purpose of prosecuting or defending the suit, as the case may be; all notices of the above description which it may be necessary to issue to any officer on the part of Government shall be served as hereinafter directed.

Similar notices in cases transferred from Revenue Boards.

4. In all cases which may be transferred to a special Commissioner by a Board of Revenue, under the provisions of the sixth clause of section 2, Regulation III, 1828, the Board shall be requested to notify the transfer to the parties or their agents who may have appeared before them, and notices similar to those prescribed in the preceding section shall be issued for the attendance of the parties, to be served through the Judge of the Zila or City Court within the jurisdiction of which the lands may be situated.

Procedure of Collectors on petitions of appeal.

5. Whenever any person who may be dissatisfied with a decision passed by a Collector shall, under the option given in the second clause of section 4, Regulation III, 1828, present his petition of appeal to the Collector by whom the decision has been passed, it shall be the duty of that officer, after having had a complete copy of the record of the case made for retention in his own office, to transmit the original record of the suit, accompanied by an accurate list of all the papers contained in it, to the office of the special Commissioner of the division: in making a transcript of the record previous to transmission, the Collector is to be specially careful that all sanads and other documents are

accurately and faithfully copied for record in his office; and the original record is, in all practicable cases, to be transmitted within fifteen days from the date on which the petition of appeal may be filed.

Notice of transmission of record to appellant and parties.

6. On the same day on which the original record of any case appealed may be transmitted from the Collector's office to that of the special Commissioner of the division, the Collector shall issue a notice to the appellant, apprising him thereof, and requiring him to attend the Commissioner, either in person or by an authorized agent, for the purpose of prosecuting his appeal within six weeks from the date of the receipt of such notice: if any other person, not being an officer of Government, shall have been a party to the case, a similar notice shall be issued to such person, and the due service of such notices shall, on their being returned to the Collector, be certified by him to the special Commissioner.

Notice to Government agent at Commissioner's kachahri of admission of appeal.

7. It shall likewise be the duty of the Collector, on the transmission of the record of any case appealed as above specified, to give notice of the admission of such appeal by parwána addressed to the officer who may be appointed, as hereinafter provided, agent on the part of Government at the kachahri of the special Commissioner.

Accompaniment to petition of appeal to Commissioner.

8. Every petition of appeal from the decision of a Collector, preferred direct to a special Commissioner under the rule quoted in section 5, or from the decisions of a Board of Revenue under the provisions of the fifth clause of section 2, Regulation III, 1828, shall invariably be accompanied by a duly authenticated copy of the decree appealed from; and, on the admission of an appeal so preferred, the special Commissioner shall, when the decision appealed from may have been passed by a Collector, issue a precept to that officer, requiring him, within a specified time, to transmit the original record of the cause to the office of the special Commissioner, a copy of the record being retained by the Collector, as provided in the fifth section of these rules;

Procedure of Commissioner on admission of appeal from decision of Collector,

and on appeal from Revenue Board.

in cases when the appeal admitted as above shall be from a decision passed by a Board of Revenue, the special Commissioner shall, by a Persian rúbakári, require such Board to transmit to his office the original record of the case (a copy being similarly retained) within a specified period.

Notice of admission of appeal to parties not appellants or Government officers.

9. When an appeal may be admitted by a special Commissioner under the rules contained in the two preceding sections, if there shall appear on a perusal of the decree appealed from to be any individuals interested in the issue of the appeal besides the appellants and the officers of Government, it shall be the duty of the special Commissioner to direct a notice of the nature described in section 6 of these rules to be served on such persons through the Zila or City Courts within the jurisdiction of which they may reside, and the due service of

Judges

such notice shall be certified by the Judge of such Court in reply to the precept issued to him by the Commissioner. to certify service of notice.

10. In cases which may be referred to the special Commissioners by the Revenue Boards under the provisions of the fourth clause of section 4, Regulation III, 1828, the notice therein directed to be issued for the attendance of the respondents as well as any notice which it may appear proper to the Commissioners to issue for the attendance of any other party, not being an officer of Government, shall issue through, and be served by, the Judge of the Zila or City Court of the district in which the respondent or such party may respectively reside. Service of notice to parties in cases referred to special Commissioners.

11. With reference to the provisions of clause third, section 4, and clause second, section 6, Regulation III, 1828, it is provided that, whenever a petition of appeal shall be preferred to a Collector against a decision passed by him, declaring land liable to assessment, or when a Collector may have reason to believe that it is the intention of the party against whom such decision may have been passed, to appeal therefrom within the period limited by the above Regulation, he shall not proceed to carry the decree into execution until after the expiration of that period, unless he shall be sooner apprised that an application on the part of the appellant to stay execution of the decree has been rejected by the special Commissioner, in which case, or otherwise after the expiration of the period limited for appealing, he may proceed to execute the decree, unless prohibited from so doing by order of the special Commissioner. When Collectors to stay execution in cases appealed.

12. Provided also that in cases in which the petition of appeal may be filed before a special Commissioner, if, on a perusal of the decree, he shall see reason to direct execution thereof to be suspended, an order to that effect shall be issued to the Collector, along with the requisition for the original record of the cause directed to be issued in the eighth section of these rules. When Commissioner to order execution to be stayed.

13. Every petition of appeal from the decision of a Board of Revenue or of a Collector, which may be preferred to a special Commissioner under the provisions of Regulation III, 1828, shall be written on stamped paper of the value of one rupee. Stamp for petition.

14. It shall be at the option of the appellant to enter the grounds of his appeal in detail in the petition for the admission of his appeal, or to reserve his arguments to be brought forward in a separate pleading, but in the event of his adopting the latter course such pleading shall be written on stamped paper value one rupee. Grounds of appeal may be set forth in petition or in separate pleading.

15. In appeals wherein an officer of Government is the party respondent, Reply of

Government to be on same paper, and always put in.

the reply to be filed to the grounds of appeal is to be written on stamped paper value one rupee, and a reply, either in express refutation of the pleas of the appellant, or generally resting the defence on the grounds recited in the decree appealed from, shall be required in every case.

In cases referred by Boards for revision, Boards to direct pleading containing grounds of dissatisfaction to be filed.

16. In cases referred by the Revenue Boards for revision to the special Commissioners under the rule in clause fourth, section 4, Regulation III, 1828, the Board referring the case shall be required, in reply to the reference, to direct the Superintendent and Remembrancer of Legal Affairs or some other public officer to file a pleading containing the grounds on which the Board are dissatisfied with the Collector's decree, and such pleading shall be written on stamped paper value one rupee.

Stamp for reply of respondent.

17. The reply of the party opposed to Government in cases of the above description shall likewise be written on stamped paper value one rupee.

Admission of further pleadings.

18. No miscellaneous petition or pleading of any kind, beyond the wujuhat of the appellant and the reply of the respondent, shall be admitted, unless on a verbal representation by the parties or their agents, before the Commissioner, such additional pleading or miscellaneous petition shall appear necessary, but when admitted to be so by the Commissioner and allowed to be filed it shall be written on stamped paper value one rupee.

Rule not to apply to petitions for suspending execution pending appeal.

19. The foregoing rule is not, however, to be construed to prevent the admission by the special Commissioners of petitions presented solely for the purpose of staying execution of decrees, which petitions may be received and acted on at any time pending the decision of an appeal.

Stamp for petitions for review.

20. With reference to the provisions for a review of judgment contained in the fifth clause of section 4, Regulation III, 1828, it is provided that all petitions for review of judgment which may be presented to the special Commissioners shall, if presented within two calendar months from the date of the decision of which review is prayed, be written on stamped paper value one rupee: but, if presented after the expiration of the above period, such petition shall be written on the stamped paper prescribed in section 13, Regulation I, 1814,[a] calculated at the computed annual produce of the land in dispute.

Rules as to default; appellant defaulting for six weeks to have

21. If any appellant shall not, within the period of six weeks from the date of instituting his appeal if preferred direct to a Commissioner, or, if filed at the Collector's office, from the date on which he may receive notice that the record of the case has been transmitted to the Commissioner, either attend in

[a] Ben. Reg. I of 1814 has been repealed by Ben. Reg. X of 1829.

person or appoint an agent as hereinafter provided and prosecute his appeal, a further notice shall be issued by the Commissioner, through the Zila or City Court, requiring such appellant to attend and prosecute his appeal within fifteen days from the date of the receipt of such notice. Notice to appear.

If the peon charged with the service of the notice cannot serve it upon the appellant personally, he shall proclaim the same at the dwelling of the appellant in the presence of witnesses, and such proclamation shall be deemed equivalent to personal service; and, if the appellant shall afterwards omit or refuse to attend the Commissioner within the prescribed period, his appeal shall be dismissed with costs. Service of notice.

22. If an appellant, after having appointed an agent to plead his cause, shall neglect to prosecute the same for a period of six weeks, a requisition by the Commissioner to such agent to proceed in the case within fifteen days shall be held equivalent to a notice to the appellant, and, in the event of his not so proceeding, his appeal shall be dismissed. If appellant defaults after appointing agent, requisition to agent sufficient notice.

23. All notices required to be served on any officer of Government concerned in a suit before the Commissioners shall be delivered to the agent appointed on behalf of Government at each Commissioner's kachahri, who shall give a receipt for the same, and transmit a copy thereof to the officer concerned, and return the original to be filed on the record. Notices to Government officers to be delivered to Government agent.

24. Should the special Commissioners, acting on the discretion vested in them, in common with the ordinary Courts of Justice, by the third clause of section 10, Regulation III, 1828, deem it necessary or proper to receive further evidence, oral or documentary, in any case depending before them, no stamp-fee shall be levied from the parties for summoning witnesses or filing exhibits. If further evidence received, no stamp-fees leviable for witnesses or documents.

25. If, in any case, the special Commissioners shall deem the further evidence of witnesses necessary, they shall be summoned and examined by the Judge of the zila or city within which they may reside, on specific points indicated by the Commissioners and recorded on their proceedings. Further evidence required, to be taken by Judge on specific points.

If a party, at whose instance a witness may be summoned, will undertake himself to produce him, or to serve the subpœna on him, he shall be allowed to do so; otherwise the process shall be served by a peon of the Zila or City Court under the ordinary rules in force: the same course shall be followed whenever it may be considered necessary to examine a witness before any of the special Commissioners. Party may produce witness, or serve subpœna, himself.

26. Every party whose case may be depending under Regulation III, 1828, before a special Commissioner shall be at liberty, if he chooses, to attend Parties may plead them-

selves, or appoint agents.

and plead his own cause in person, or to appoint a mukhtár or agent specially for that purpose.

Power-of-attorney to agent to be executed and filed.

27. Every person who may appoint an agent, as above authorized, shall execute a regular power-of-attorney in such agent's name, and the execution of such instrument, which may be written on unstamped paper, shall be attested by some European public officer, and it shall be filed on the record of the case.

Choice of agents by parties

28. The parties in cases before the Commissioners are not to be restricted in the appointment of agents to any particular number of individuals, provided that the persons appointed shall appear to the Commissioners to be of good character and respectability.

Parties may settle with mukhtárs as to remuneration

Settlement in case they disagree.

29. The parties shall be at liberty to make such arrangements in regard to remuneration for their services with the mukhtárs or agents whom they may appoint, as may be agreed on among themselves:

Provided, however, that, if on the decision of the case the parties shall disagree as to the sufficiency or otherwise of the terms agreed on, the amount shall be fixed by the Commissioner or Commissioners by whom the case is decided:

Provided also that, if any mukhtár shall (without waiting for the final adjustment of the matter as above provided for at the time of decision) decline to act further for his principal, he shall, if the latter demand it, be required to refund any sum which he may already have received for undertaking the conduct of the cause.

Mukhtárs subject to fine, &c., for neglect and misconduct.

30. Every agent or mukhtár who may be appointed to conduct a cause before the special Commissioners shall be subject to fines and other penalties for neglect, contempt of Court or other misbehaviour, to the same extent, and in the same manner, as the regular pleaders of the Courts of Justice are subject by the Regulations.

Agent to be appointed for Government at each kachahri where Commissioners sit.

31. An agent shall be appointed (if approved by Government) by the Superintendent and Remembrancer of Legal Affairs to attend on behalf of Government at each kachahri where suits may be heard and determined by the special Commissioners, and such agent shall be remunerated by a fixed salary, or in such other manner as the Governor General may be pleased to determine; the agent so appointed shall, moreover, be liable to all the rules applicable to Government pleaders, as well as to the rules prescribed for the agents who may be employed by individuals to plead before the Commissioners.

Agents' remuneration, fixed by Commissioners, to be

32. In giving judgment in each case, if the special Commissioners shall see reason to interfere in regard to the compensation to be paid by the parties to the agents employed to plead their cause, the amount of remuneration finally

authorized shall be inserted as costs at the foot of the decree; distinct provision shall likewise be made in every decree as to whether the party against whom it is passed is, or is not, to bear the whole or any portion of the expenses which may have been incurred by the party opposed to him, including, of course, costs of the nature indicated in the seventh clause of section 2, Regulation III, 1828, in cases to which that clause may be applicable.

Provisions as to costs entered in decree as costs.

33. The original decrees of the special Commissioners, intended to be kept with the records of the cases, as well as three counterparts, to be disposed of as underneath directed, are to be transcribed on plain paper, but of European manufacture exclusively; one counterpart shall, as soon as practicable, be delivered to the party opposed to Government; one counterpart shall be transmitted to the Collector of the district in which the land is situated; and the remaining counterpart shall be forwarded to the Board of Revenue or other authority exercising the powers of a Board of Revenue, under the control of which such Collector may be placed.

Decree and three counterparts to be prepared: how to be disposed of.

All other copies of the decrees of the Commissioners, which parties may require for private use, or as documents to exhibit in evidence, shall be made at the expense of the parties on plain or stamped paper, under the general Regulations in force; but such copies shall only be permitted to be prepared by persons duly authorized by the Commissioners.

Other copies to be made as directed by Regulations in force.

34. In transmitting a counterpart of the decree, as above directed, to the Collector, the Commissioner by whom it may have been passed shall accompany it by instructions to that officer to carry it into immediate execution, and to report within a given period the measures which he may have adopted for that purpose.

In transmitting counterpart to Collector, Commissioner how to instruct him.

35. In all matters not specially provided for in the foregoing rules or in Regulation III, 1828, the course of proceeding shall be conformable to the rules in force for the guidance of the Courts of Justice in the trial and decision of regular appeals.

Commissioners to be guided by Regulations in trial of appeals.

36. With a view to ensure uniformity in the proceedings and practice of the several special Commissioners appointed to act under Regulation III, 1828, it is hereby provided that, whenever it may be deemed necessary by any special Commissioner to propose rules of practice, either original or in modification of the present rules, he shall transmit a draft of such rules to each of the other Commissioners acting under the Regulation, with a request that they will record their sentiments on the expediency or otherwise of the proposed rules, so that the draft, when transmitted for the consideration of Government by the Commissioner with whom it may originate, may be accompanied by the observations of all the Commissioners.

Commissioner proposing new rules to submit to Government, with his draft, the opinions of other Commissioners.

FORM (A).

REGISTER of Lákhiráj Cases before the Special Commissioner appointed under Regulation III, 1828, for the Division of_____.

Number of Appeal.	Names of Parties.	District in which the Land is situated.	Substance of the Decree appealed from.	Date of the Decree appealed from.	Date of Appeal.	Date and substance of Final Decision.

REGULATION IV OF 1828.[a]

Passed on the 7th August, 1828.

A Regulation to declare and extend the powers to be exercised by Collectors when making or revising settlements under the provisions of Regulation VII, 1822.

Preamble.

1. WHEREAS it appears to be expedient that the powers specified in section 16, Regulation VII, 1822, should be generally vested in Collectors and other officers performing the duties of Collectors, when employed in making or revising settlements according to the provisions of that law, and that the jurisdiction of the said officers in such cases should not be barred by summary decisions passed by Magistrates or Joint Magistrates,[b] the following rules have been enacted, to be in force from the date of their promulgation throughout the Provinces subject to the Presidency of Fort William :—

2. *First, Second, Third.*—[*Collectors making or revising settlements empowered to try all questions of property in or possession of lands.*] *Rep. by Ben. Reg. IX of 1833, s. 4.*

Period during

Fourth.—To prevent doubts as to the period for which Collectors and

[a] This Regulation has been declared to apply to the whole of Bengal except the Scheduled Districts by Act XV of 1874, s. 6, and under s. 3 of the Scheduled Districts Act, 1874, it has been declared in force in West Jalpáiguri, Western Hills, the Terai, the districts of Hazáribágh, Lohardugga and Manbhoom and Pergunnah Dhalbhoom—see *infra*, pp. 629 and 654.

The Regulation has been repealed in the territories to which the Assam Land and Revenue Regulation, 1886, extends—see Reg. I of 1886, s. 2, Assam Supplement.

[b] Certain words and figures in s. 1, repealed by Act XII of 1876, s. 1, have here been omitted.

other officers aforesaid are to possess the powers vested in them by this Regulation and by Regulation VII, 1822, in regard to any mahâls of which the settlement may have been, or may be about to be, made or revised, it is hereby declared and enacted that they shall be held and considered to be engaged in making and revising such settlement from the date on which they have issued or may issue orders for adjusting the boundaries, for measuring any of the lands or for making a census of the inhabitants of any village or portion of a village belonging to such mahâl, of which intimation shall be given to the Magistrate or Joint Magistrate within whose division the village shall be situated, up to the day on which they may be informed that the settlement, as made and revised by them, has been finally confirmed by Government. which Collectors are to be considered to be engaged in making and revising settlements.

During the aforesaid period[a] Magistrates and Joint Magistrates[a] shall be guided, in respect to such mahâls, by the provisions of clause second, section 34, Regulation VII, 1822, by which they were required to refer to the Revenue-authorities disputes regarding lands, premises, crops, water-courses and the like.

And all police-officers are required to give immediate and efficient support to Collectors and other Revenue-officers in the execution of their duties.

REGULATION I OF 1829.[b]

Passed on the 1st January, 1829.

A Regulation for constituting Commissioners of Revenue and Circuit; for establishing a Sadr Board of Revenue; for modifying the constitution of the Provincial Courts; for transferring to the said Commissioners the functions now exercised by the Superintendents of Police and those of the mufassal special Commissioners acting under the provisions of Regulation I, 1821[c]; and otherwise for providing for the better administration of civil and criminal justice.

1. THE system in operation for superintending the magistracy and the police, and for controlling and directing the executive Revenue-officers, who in several cases are also Magistrates, has been found to be defective. Preamble.

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[a] Certain words and figures in s. 2, cl. (4), repealed by Act XVI of 1874, s. 1, have here been omitted.

[b] This Regulation has been declared to apply to the whole of Bengal except the Scheduled Districts by Act XV of 1874, s. 6, and under s. 3 of the Scheduled Districts Act, 1874, it has been declared in force in West Jalpáiguri, Western Hills, the Terai and Dumson—see *infra*, p. 630.

The Regulation has been repealed in the territories to which the Assam Land and Revenue Regulation, 1886, extends—see Reg. I of 1886, s. 2, Assam Supplement.

[c] Ben. Reg. I of 1821 has been repealed by Act VIII of 1868.

The Provincial Courts of Appeal and Circuit, as now constituted, partly from the extent of country placed under their authority, and partly from their having to discharge the duties of both civil and criminal tribunals, have, in many cases, failed to afford that prompt administration of justice which it is the duty of Government to secure for the people.

The gaol-deliveries have been, in some instances, delayed beyond the term prescribed by law, especially in the division of Bareli, which comprises thirteen stations at which gaol-deliveries have to be held, besides the joint magistracies of Bilá and Sirpurá; and a great arrear of cases under appeal has accrued in all the Courts, to the manifest injury of many individuals and to the encouragement of litigation and crime.

The Judges of Circuit, when employed singly in the districts under their authority, do not possess sufficient powers, nor have they the opportunity of acquiring sufficient local knowledge, to enable them adequately to control the police or protect the people.

The great extent of country under each of the Boards of Revenue has similarly operated to impede them in the execution of the duties which belong to them as tribunals for the determination of all questions relative to the assessment of lands under settlement and for the judicial decision of many other important cases, as the general guardians of the fiscal interests of the State, as directors and superintendents over the executive officers, and as the confidential advisers of Government.

For the correction of the above defects, it has appeared to be expedient and necessary to place the magistracy and police, and the Collectors and other executive Revenue-officers, under the superintendence and control of Commissioners of Revenue and Circuit, each vested with the charge of such a moderate tract of country as may enable them to be easy of access to the people, and frequently to visit the different parts of their respective jurisdictions; to confide to the said Commissioners the powers now vested in the Courts of Circuit, together with those that belong to the Boards of Revenue, to be exercised, with the modifications hereinafter provided, the former under the authority of the Nizámat Adálat, and the latter under the instructions and control of a Sadr or Chief Board of Revenue, and altogether to disjoin the functions of the Courts of Circuit from those of the Judges of Appeal.

It has, at the same time, appeared to be necessary, with a view to the more speedy and effectual redress of the wrongs which the people have suffered in several of the districts of the Western Provinces, under the circumstances detailed in the preamble of Regulation I, 1821,[a] to transfer to the said Com-

[a] Ben. Reg. I of 1821 has been repealed by Act VIII of 1868.

missioners of Revenue and Circuit the powers and authority now exercised by the mufassal special Commissioners acting under the provisions of that law, with certain modifications hereinafter specified.

It has likewise been deemed expedient to extend the system of administration which has been for some years followed in Cuttack to the adjoining district of Midnapore, and to certain other districts in the vicinity of tracts of which the affairs are conducted on similar principles; and further, with a view to public economy, it has been deemed proper to abolish the office of Superintendent of Police, the necessity for which is superseded by the appointment of Commissioners.

With the above views and purposes the Governor General in Council has enacted the following rules, to be in force from the 1st March, 1829, throughout the Provinces immediately subject to the Presidency of Fort William: —

Appointment of Commissioners of Revenue and Circuit for divisions specified.

2. A Commissioner of Revenue and Circuit shall be appointed for each of the under-mentioned divisions: provided, however, that it shall be competent to the Governor General in Council, by an order in Council, to transfer any district or districts from one division to another, and to increase or reduce the number of Commissioners, if such a measure shall appear to be necessary or expedient; due notice of any such arrangement being given by public proclamation.

1st Division to contain the districts under the Magistrates, Collectors, Joint Magistrates and Sub-Collectors of . . .	.	Saháranpur, Muzaffarnagar, Meerut and Bulandshahr.
2nd Ditto . ditto of . . .	.	Agra, Aligarh and Sa'dábád.
3rd Ditto . ditto of . . .	.	Farrukhabad, Mainpuri, Sirpura and Etáwah.
4th Ditto . ditto of . . .	.	Moradabad, Nagíná and Sahaswán.
5th Ditto . ditto of . . .	.	Bareli, Sháhjahánpur and Pilibhit.
6th Ditto . ditto of . . .	.	Cawnpore, Bilá and N. Bundelkhand.

7th Division to contain the districts under the Magistrates, Collectors, Joint Magistrates and Sub-Collectors of . .		Allahabad, Fatehpur and Bánda.
8th Ditto .	ditto of . . .	Benares, Mirzapur and Jaunpur.
9th Ditto .	ditto of . . .	Gorakhpur, Azamgarh and Ghazipur.
10th Ditto .	ditto of . . .	Sarun, Shahabád and Tirhoot.
11th Ditto .	ditto of . . .	Patna, Behar and Ramgarh.
12th Ditto .	ditto of . . .	Bhágalpur, Monghyr, Malda and Purneah.
13th Ditto .	ditto of . . .	Dinájpur, Rungpore, Rájsháhi and Bagurá.
14th Ditto .	ditto of . . .	Moorshidabad, Beerbhoom and Nuddea.
15th Ditto .	ditto of . . .	Dacca, Dacca Jalálpur,[a] Tipperah and Mymensingh.
16th Ditto .	ditto of . . .	Chittagong and Noakholly — To be placed under the officer appointed to control the affairs of Arakan.
17th Ditto .	ditto of . . .	Sherpur and Sylhet — To be placed under the Commissioner of Assam and the N. E. parts of Rungpore.
18th Ditto .	ditto of . . .	Backergunge, Jessore, Suburbs of Calcutta,[b] 24-Pergunnahs and Baraset.

[a] Zila Dacca Jalálpur has been abolished by Ben. Reg. V of 1833
[b] The zila of the suburbs of Calcutta has been abolished by Ben. Reg. VIII of 1832.

19th Division to contain the districts under the Magistrates, Collectors, Joint Magistrates and Sub-Collectors of . . { Cuttack, Khoordah, Balasore, Midnapore and Nagwán, including Hijli.

20th Ditto ditto of . . . { Burdwan Jungle Maháls and Hooghly.

3. [*Commissioners invested with powers of Judges of Circuit and Courts of Circuit collectively; period of holding sessions, &c.*] *Rep. by Act XVI of 1874, s. 1.*

4. *First.*—The said Commissioners shall, until otherwise specifically provided for by law, possess and exercise within the several districts comprised in their respective divisions the powers and authority now vested in the Boards of Revenue and Courts of Wards, subject to the control and direction of a Sadr or Head Board, to be ordinarily stationed at the Presidency, unless otherwise directed by the Governor General in Council, and to such restrictions and provisions as the Governor General in Council or the said Sadr Board, with his authority or sanction, may prescribe.

Commissioners to have powers of Boards of Revenue and Courts of Wards.

Second.—In regard to the form of their proceedings in the Revenue Department, the Commissioners and the Sadr Board shall be guided by such orders as the Governor General in Council may from time to time issue, and it shall be competent to the Governor General in Council to fix the stations at which the Board and the Commissioners, when not employed on the duties of circuit, shall reside, at such places within the territories belonging to this Presidency as may from time to time be deemed expedient.

Sadr Board and Commissioners how guided as to form of their revenue-proceedings.

Third.—Provided also that, in cases in which any tract of country that belongs to the jurisdiction of a Magistrate or Joint Magistrate of one division may be under the authority of a Collector or Deputy Collector attached to another division, the Governor General in Council shall determine, by an order in Council, the nature and extent of the powers to be exercised in regard to the revenue affairs of such tract by the Commissioners respectively with whose divisions it may be so jointly connected.

When tract within jurisdiction of Magistrate of one division is under Collector of another division.

5. [*Abolition of powers of certain Provincial Courts of Appeal.*] *Rep. by Act XVI of 1874, s. 1.*

6. Such of the provisions of the existing Regulations for defining the duties and powers of the Revenue Boards and Courts of Wards, or of single members thereof, as may be inconsistent with the arrangement above prescribed, are, and shall be considered to be, annulled.

Repeal of inconsistent provisions.

7. The offices of Superintendents of Police in the Lower and Western

Offices of

Superintendents of Police abolished.

Provinces are hereby abolished, and the provisions of Regulation X, 1808,[a] and other Regulations subsequently enacted in regard to the said offices are hereby rescinded:

Commissioners to perform duties of Superintendents except as to tender of pardon to accomplices.

Provided, however, that the Commissioners of Revenue and Circuit shall and may, for their respective divisions, perform all the duties and exercise the powers heretofore belonging to the Superintendents of Police, save and except those vested in them by Regulation X, 1824,[b] in regard to the pardon of persons charged with or suspected of criminal offences previously to the trial of the case at sessions.

The several Magistrates and Joint Magistrates are authorized to tender a pardon in the several cases specified in the said Regulation, without reference to any other authority, subject to the other provisions therein contained, and under their general responsibility to the superior Courts and Government for the sound exercise of the discretion vested in them.

Powers of Commissioner of Cuttack and Midnapore.

8.[c] The Commissioner for the division of Cuttack *and Midnapore* shall possess and exercise, throughout the districts under his authority, the same powers as belong to him in the first-mentioned province.

But so much of clause fifth, section 5, Regulation V, 1818,[a] as provides that the decisions passed by the Commissioner in original civil suits, or in appeals cognizable by him, shall, with the exception therein stated, be final, is hereby rescinded: and the Commissioner shall accordingly, in his capacity of a Judge of Appeal, be subject to the Sadr Diwáni Adálat, in like manner as other Provincial Judges:

Provided also that, in the Revenue Department, the Commissioner shall be subject to the Sadr Board, in like manner as the Commissioners of other divisions.

Powers of Commissioners of Arakan and Assam.

9. *First.*—The Commissioners of Arakan and Assam shall possess and exercise, within the districts of Bengal which are by this Regulation attached to their respective divisions, the same powers as belong to the Commissioner of Cuttack, modified as above.

Second.—[*Conferment of powers on the Resident at Delhi.*] *Rep. by Ben. Regs. VI and X of 1831, ss. 8 and 4, respectively.*

10. [*Abolition of office of mufassal special Commissioner; modification of practice under Regs. I of 1821 and I of 1823.*] *Rep. by Act III of 1835, s. 1.*

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[a] Ben. Regs. X of 1808 and V of 1818 have been repealed by Act VIII of 1868.

[b] Ben. Reg X of 1824 has been repealed by Act XVII of 1862.

[c] So much of s. 8 as confers upon the Commissioner for the division of Cuttack the powers of a Provincial Court of Appeal, in regard to the division of Midnapore, has been repealed by Ben. Reg 1, 1830, s. 2.

REGULATION XVII OF 1829.*

Passed on the 4th December, 1829.

A Regulation for declaring the practice of sati or of burning or burying alive the widows of Hindus illegal and punishable by the Criminal Courts.

Preamble.

1. THE practice of sati or of burning or burying alive the widows of Hindus is revolting to the feelings of human nature; it is nowhere enjoined by the religion of the Hindus as an imperative duty; on the contrary, a life of purity and retirement on the part of the widow is more especially and preferably inculcated, and by a vast majority of that people throughout India the practice is not kept up nor observed: in some extensive districts it does not exist; in those which it has been most frequent it is notorious that in many instances acts of atrocity have been perpetrated which have been shocking to the Hindus themselves and in their eyes unlawful and wicked.

The measures hitherto adopted to discourage and prevent such acts have failed of success, and the Governor General in Council is deeply impressed with the conviction that the abuses in question cannot be effectually put an end to without abolishing the practice altogether.

Actuated by these considerations, the Governor General in Council, without intending to depart from one of the first and most important principles of the system of British Government in India, that all classes of the people be secure in the observance of their religious usages, so long as that system can be adhered to without violation of the paramount dictates of justice and humanity, has deemed it right to establish the following rules, which are hereby enacted to be in force from the time of their promulgation throughout the territories immediately subject to the Presidency of Fort William:

Sati declared illegal and punishable.

2. The practice of sati or burning or burying alive the widows of Hindus is hereby declared illegal and punishable by the Criminal Courts.

Zamindárs,

3. *First.*—All zamindárs, taluqdárs or other proprietors of land, whether

* This Regulation has been declared to apply to the whole of Bengal except the Scheduled Districts by Act XV of 1874, s 6. It has also been declared in force by Reg. III of 1872, s. 3, as amended by Reg III of 1886, s 2, in the Sonthal Pergunnahs, and under s. 3 of the Scheduled Districts Act, 1874, in West Jalpáiguri, Western Dwárs, the districts of Hazáribágh, Lohardugga and Manbhoom, Pergunnah Dhalbhoom and the Kolhan—see *infra*, pp. 630 and 655; also in the district of Sylhet—see Appendix to Assam Supplement.

&c., responsible for immediate communication to police of intended sacrifice.

málguzári or lákhiráj, all sadr farmers and under-renters of land of every description, all dependent taluqdárs, all náibs and other local agents, all Native officers employed in the collection of the revenue and rents of lands on the part of Government or the Court of Wards, and all mandals or other headmen of villages, are hereby declared especially accountable for the immediate communication to the officers of the nearest police-station of any intended sacrifice of the nature described in the foregoing section; and any zamindár or other description of persons above noticed, to whom such responsibility is declared to attach, who may be convicted of wilfully neglecting or delaying to furnish the information above required, shall be liable to be fined by the Magistrate or Joint Magistrate in any sum not exceeding two hundred rupees, and in default of payment to be confined for any period of imprisonment not exceeding six months.*

Penalty in case of neglect.

Police how to act on receiving intelligence of intended sacrifice;

Second.—Immediately on receiving intelligence that the sacrifice declared illegal by this Regulation is likely to occur, the police-dárogha shall either repair in person to the spot, or depute his muharrir or jamadár, accompanied by one or more barkandázes of the Hindu religion, and it shall be the duty of the police-officers to announce to the persons assembled for the performance of the ceremony that it is illegal, and to endeavour to prevail on them to disperse, explaining to them that, in the event of their persisting in it, they will involve themselves in a crime and become subject to punishment by the Criminal Courts.

Should the parties assembled proceed in defiance of these remonstrances to carry the ceremony into effect, it shall be the duty of the police-officers to use all lawful means in their power to prevent the sacrifice from taking place, and to apprehend the principal persons aiding and abetting in the performance of it; and in the event of the police-officers being unable to apprehend them they shall endeavour to ascertain their names and places of abode, and shall immediately communicate the whole of the particulars to the Magistrate or Joint Magistrate for his orders.

how to act when intelligence of sacrifice does not reach them until after it has taken place.

Third.—Should intelligence of a sacrifice declared illegal by this Regulation not reach the police-officers until after it shall have actually taken place, or should the sacrifice have been carried into effect before their arrival at the spot, they will nevertheless institute a full inquiry into the circumstances of the case, in like manner as on all other occasions of unnatural death, and

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* As to penalty for neglecting to give information under the Indian Penal Code, see Act XLV of 1860, s. 176.

report them for the information and orders of the Magistrate or Joint Magistrate to whom they may be subordinate.

4, 5. [*Trial of persons concerned in the sacrifice; sentence of death Court of Nizámat Adálat.*] *Rep. by Act XVII of 1862, s. 2.*

REGULATION V OF 1830.[a]

Passed on the 9th June, 1830.

A Regulation ~~for amending the provisions of Regulation VI, 1828, and for providing~~ more effectually ~~for enforcing the execution of contracts~~ relating to the cultivation and delivery of Indigo-plant.

Preamble.

1. ~~Whereas the rules contained in Regulation VI, 1828 (extended to the~~ Provinces of Orissa, Behar and Benares, and to the Ceded and Conquered Provinces, by Regulation V, 1824[b]), for enforcing the execution of contracts relating to the cultivation and delivery of indigo-plant, have been found in a great measure ineffectual; and whereas it is deemed just and proper to extend the penalties prescribed by section 5, Regulation VII, 1819,[c] to contracts for the cultivation of indigo-plant, and to provide for the punishment of persons ~~convicted of damaging indigo-crops;~~

~~and~~ whereas it is desirable in certain cases to afford persons who may be unwilling to renew their contracts for the cultivation of indigo the means of obtaining, by summary process, a release from their engagements;

the following rules have been enacted, to be in force from the date of their promulgation throughout the territories subject to the Presidency of Fort William:—

2. [*Criminal prosecution of persons inducing raiyats to break contract.*] *Rep. by Act VIII of 1868, s. 1.*

3. [*Cultivators failing to fulfil engagements liable to imprisonment.*] *Rep. by Act XVI of 1835.*

4. [*Punishment of persons damaging indigo-plant.*] *Rep. by Act III of 1857, s. 1.*

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[a] Ss. 1 and 5 of this Regulation have been declared to apply to the whole of Bengal except the Scheduled Districts by Act XV of 1874, s. 6, and under s. 3 of the Scheduled Districts Act, 1874, they have been declared in force in West Jalpáiguri—see *infra*, p. 630; ~~also in the district of Lushai—see Appendix to Assam Supplement.~~

[b] Ben Reg. V of 1824 has been repealed by Act XV of 1874.

[c] Ben. Reg. VII of 1819 has been repealed by Act XVII of 1862.

Procedure by persons wishing to be released from their engagements.

5. *First.*—Any person who, having received advances under a written agreement for the cultivation of indigo, shall be desirous, on the expiration of the period of his contract, to settle his account, shall be at liberty, in the event of the proprietor of the factory, or the person acting in his behalf, refusing to settle the same, to present a petition to the Zila Court;

and the Judge, after a summary inquiry, in the presence of the parties or their authorized agents, into the merits of the case, shall, on proof of the expiration of the contract, and of there being no balance due from the petitioner, or if the petitioner shall deposit in Court the amount of any balance that may be adjudged to be due from him, grant the said petitioner a release from his engagement, and shall pay over the amount of any balance that may be deposited by him to the proprietor, or to the person acting in his behalf.

Procedure if proprietor objects to receive balance.

Second.—If the proprietor or person aforesaid shall refuse to receive the balance awarded to him by the summary process above provided, the Judge shall return the amount to the petitioner, leaving the defendant to seek his remedy by a regular suit.

REGULATION IV of 1833.

Passed on the 3rd May, 1833.

A Regulation to provide more effectually for the management of convicts sentenced to labour and employed on the roads or public works under superintendents or their assistants appointed by Government, and to enable those officers to maintain good order and discipline among the convicts and their guards.

Preamble.

1. WHEREAS it is necessary in certain cases to vest the superintendents of roads and other public works or their assistants, who have the direction of the labour of convicts, with powers necessary to enable them to exert an efficient control over the convicts and the guards employed with them; the following rule has been enacted:—

Power to vest superintendents of convicts on public works with powers for their control.

2. It shall be competent to the Governor General in Council to vest superintendents of convicts employed on the roads and other public works, and assistants to such superintendents, with such powers for the above purpose as he may from time to time deem necessary.

REGULATION IX OF 1833.*

Passed on the 9th September, 1833.

A Regulation to modify certain portions of Regulation VII of 1822 and Regulation IV of 1828; to provide for the more speedy and satisfactory decision of judicial questions cognizable by officers of revenue employed in making settlements under the above Regulations; for enforcing the production of the village-accounts; for the more extensive employment of Native agency in the Revenue Department; and to declare the intent of section 5, Regulation VII of 1822, touching claims to málikána.

Preamble.

1. EXPERIENCE having demonstrated the expediency of modifying certain enactments of Regulation VII of 1822, and Regulation IV of 1828, also of providing a more speedy and satisfactory mode of deciding such judicial questions as may be cognizable by officers of the Revenue Department under those Regulations, and of declaring the intent of the rules regarding málikána promulgated by section 5, Regulation VII of 1822; it having been found expedient likewise that measures should be adopted for enforcing the production of the village-accounts, and for rendering them accessible to all persons concerned having occasion to examine them; also that Natives of respectability should be employed in more important trusts connected with the revenue-administration; the following provisions have been enacted, to be in force from the date of their promulgation :—

Repeal of provisions of Regulation VII, 1822, as to mode of determining jama to be demanded from mahál.

2. So much of Regulation VII of 1822 as prescribes, or has been understood to prescribe, that the amount of jama to be demanded from any mahál shall be calculated on an ascertainment of the quantity and value of actual produce, or on a comparison between the costs of production and value of produce, is hereby rescinded.

Repeal of provisions as to investigation of claims simultaneously with determination of Government demand.

3. So much of the above Regulation as prescribes, or has been understood to prescribe, that the judicial investigation into and decision on questions of disputed private claims shall be conducted simultaneously with the ascertainment of and determination on the amount of the Government demand is hereby rescinded.

* This Regulation has been declared in force, under s 3 of the Scheduled Districts Act, 1874, in the districts of Hazáribágh, Lohardugga and Manbhoom and Pergunnah Dhalbhoom—see *infra*, p 655.

It has been repealed in the territories to which the Assam Land and Revenue Regulation, 1886, extends—see Reg. V of 1886, s. 2, Assam Supplement.

The Governor General in Council will hereafter determine the order in which the above matters shall be respectively disposed of.

4. [*Repeal of parts of Reg. IV of 1828.*] *Rep. by Act XVI of 1874, s. 1.*

When Collector making settlements considers arbitration necessary, he may fix period for production of award.

5. In addition to section 33, Regulation VII of 1822, it is hereby enacted that whenever any judicial question may be depending before a Collector or other officer employed in making settlements under the provisions of Regulation VII of 1822, in which the interests of justice may, in the opinion of such officer, require that the case be decided by arbitration, it shall be lawful for him to fix, under the instructions with which he may be furnished by the superior Revenue-authorities, a period within which the parties must produce the award.

When Collector may summon panchâyat.

6. In that case, if the parties shall refuse or neglect to produce such award within the term limited, it shall be lawful for the Collector or other officer to summon a panchâyat, to be composed of three or five impartial and otherwise competent persons of good repute for the trial of the matter at issue.

Procedure of panchâyat.

7. After duly considering the statements and evidence offered by the parties, or, in case of the default or recusance of either, the statements and evidence produced by the party in attendance, the panchâyat shall declare their opinions, and judgment shall be recorded according to the sentence of the majority.

The superior Revenue-authorities will from time to time issue such rules of practice for the guidance of the officers employed on this duty, or the panchâyats, as they may consider necessary.

Bar of appeal submission to second panchâyat.

8. No appeal shall be allowed from such decisions, which shall be immediately executed and maintained, unless the Commissioner, subject to the control of the Sadr Board of Revenue, should think proper, for any special reason, to direct that the case shall be submitted to another panchâyat for decision.

Non-suit of suit to set aside decision; also suits against arbitrators.

9. Any suit brought before any Court of Justice to set aside a decision made in conformity with the above rules shall be non-suited with costs.

10. In like manner any suit brought before any Court of Justice against the arbitrators, collectively or individually, appointed in conformity with the rules prescribed, to recover from them the value of the property lost by the decision founded on their award, shall be non-suited with costs.

Intention of rules as to málikána in section 5, Regulation VII, 1822.

11. It is hereby declared that the rules concerning málikána contained in section 5, Regulation VII of 1822, were intended to have a prospective effect only, and to be applicable solely to settlements made under that Regulation, and to recusance tendered at the completion of such settlements.

Village-accounts.

12. It is further enacted that the village-accounts which are required to

be kept in such manner and form as has heretofore been the custom, or in such other mode as may hereafter be prescribed by the Boards of Revenue, shall be prepared in duplicate sets—one for deposit in the office of patwári, and one for deposit in the office of Collector of the district in which the respective estates or tenures may be situated, and, wherever the office of a kánúngo may be established, a third copy shall be prepared and deposited in that office.

Accounts to be furnished according to directions of Boards.

13. The several accounts required for deposit in the pargana and zila revenue-offices, as above stated, instead of being delivered at the expiration of every six months, as prescribed by the rules at present in force, shall be furnished in such mode and at such periods as the Boards may direct.

They shall be open to the inspection of every person concerned desirous of examining them.

14, 15. [*Penalties to landholders for not conforming to rules regarding village-accounts.*] *Rep. by Act X of 1859, s. 1.*

Appointment of Deputy Collectors.

16. It shall be competent to the Governor General in Council to appoint to any revenue-jurisdiction a Deputy Collector, with the powers hereinafter specified.

Persons eligible to office, and how appointed.

17. The office of Deputy Collector shall be open to Natives of India of any class or religious persuasion.

The persons selected shall be appointed by the Governor General in Council, and shall receive their commissions from Government in the usual mode, under the signature of the Secretary in the Revenue Department.

Monthly allowance how fixed, and susceptible of increase.

18. The Deputy Collectors will receive a monthly allowance, to be fixed by the Governor General in Council, and to be susceptible of increase, from time to time, as their conduct may appear to entitle them respectively to such consideration.

19. [*Solemn declaration to be made by Deputy Collectors.*] *Rep. by Act X of 1873, s. 2.*

Subordination of Deputy Collectors.

20. The Deputy Collectors appointed under this Regulation are to be in all respects subordinate to the Collector under whom they may be placed, and are required to perform all duties assigned to them by that functionary.

Duties in which Collectors may employ them.

21. It will be at the discretion of the latter officer to employ them in settlement-duties under the provisions of Regulation VII, 1822, in the superintendence of the Government khás mahál, and generally in the transaction of any other part of the duties of a Collector.

Their proceedings how recorded and how appealable.

22. All proceedings held by a Deputy Collector appointed under this Regulation shall be recorded in his own name and on his own responsibility, subject to the revision and control of the Collector, and appealable to the superior authorities in the usual course.

Collector may resume duties committed to Deputy

23. Provided always that the Collector is competent to resume the duties which he may have committed to the Deputy, assigning his reasons for so doing for the information of the Commissioner.

Interference by Commissioners with arrangements of Collectors for employment of Deputies.

24. Provided also that the Revenue Commissioners, whenever they think proper, may interfere with any arrangements made by the Collectors for the employment of the deputies, or the distribution of business to be assigned to those functionaries, subject to the general control vested in the Sadr Board of Revenue or the Government, as the case may be.

Rules regarding dismissal of Deputy Collectors.

25. A Deputy appointed under this Regulation shall not be removeable but for misconduct, and with the sanction of the Governor General in Council.

Whenever there may be reason to believe that a deputy is disqualified by neglect, incapacity or corruption for continuance in office, a report shall be submitted by the local authorities, through the channel of the Sadr Board of Revenue, for the consideration of the Governor General in Council, who shall be competent to suspend him, and order a further inquiry into the conduct of such Deputy, or to direct his immediate dismissal, as may appear just and proper.

PART II.

LOCAL ACTS OF THE GOVERNOR GENERAL IN COUNCIL IN FORCE IN BENGAL.

ACT No. X OF 1836.[a]

Passed on the 11th April, 1836.

1. [*Repeal of cl. 3 of s. 5 of Reg. VI of 1823.*] *Rep. by Act XIV of 1870, s. 1.*

Security to be given by person desiring to remove indigo-plant ordered to be delivered to him.

2. [b]Whenever the right to indigo-plant may be contested and an order shall be passed under the provisions of clause ninth, section 3, Regulation VI, 1823, of the Bengal Code, for the delivery of indigo-plant to one of the parties claiming the same, such party shall not be allowed to cut or remove the indigo-plant until he shall have given sufficient security to the satisfaction of the Court trying the case to make good any claim that shall be ultimately established to such indigo-plant, whether arising from a prior right to the produce of the land, or from an arrear of rent due on account of the specific parcel of land from which the plant may have been produced.

Right of suit of person making advances for cultivation or delivery of indigo-plant when breach of contract is induced by third person.

3. [b]When a lawful contract shall have been made between a raiyat and another party, by which contract the raiyat shall have bound himself to cultivate indigo-plant for the other party, or to deliver indigo-plant to the other party, and when the other party shall have advanced money to the raiyat for the purpose of enabling the raiyat to fulfil such contract, then if any other person, knowing that such contract exists and that such advance has been made, shall prevail upon the raiyat to break such contract, the party who made the advance shall be entitled to proceed by civil action against the person who shall have so prevailed on the raiyat, as well as against the raiyat, and to recover

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[a] This Act has been declared to apply to the whole of Bengal except the Scheduled Districts by Act XV of 1874, s 6, and under s 3 of the Scheduled Districts Act, 1874, it has been declared in force in West Jalpáiguri, the districts of Hazáribágh, Lohardugga and Manbhoom, Pergunnah Dhalbhoom and the Kolhan—see *infra*, pp. 630 and 655; ~~also in the district of Sylhet—see Appendix to Assam Supplement.~~

[b] The first six words of ss. 2 and 3, repealed by Act XVI of 1874, s 1, have been omitted.

from him or them, jointly or severally, damages to the extent of the injury sustained, together with costs of suit:

Bar of suit for act done to recover debt or secure performance of lawful contract.

Provided always that nothing in this section contained shall be construed to give a right of action against any person in consequence of any act which that person may have done for the purpose of procuring payment of a debt or performance of a lawful contract.

Power to examine both plaintiff and defendant in suit, and to award compensation to successful defendant.

4. [a]The Court trying any suit instituted under the provisions of Regulation VI, 1823, of the Bengal Code, or under the provisions of this Act, shall be authorised to examine both the plaintiff and the defendant whenever the Court shall deem such examination necessary to the ends of justice; and, if the award be in favour of the defendant, to assign to the defendant a sum which may be a compensation to him for the expense and loss of time occasioned by the proceeding.

5. [*Power to refer certain suits to a Principal Sadr Amín or Sadr Amín.*] *Rep. by Act VIII of 1868, s. 1.*

ACT No. XXI of 1836.[b]

Passed on the 19th September, 1836.

Power to create new, and alter limits of existing, zilas.

It shall be lawful for the Governor General in Council, by an Order in Council, to create new zilas in any part of the Presidency of Fort William in Bengal, and to alter the limits of existing zilas.

ACT No. VI of 1837.

Passed on the 1st May, 1837.

Liability of málguzárs for jama fixed by settlement.

1. [c]Every málguzár in the Province of Cuttack and every body of málguzárs in the said Province having, as such body, joint engagements with the Government, and being persons acknowledged as the proprietors or possessors of a permanent interest in the mahál for which they have engaged, shall be

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[a] The first six words of s. 4, repealed by Act XVI of 1874, s. 1, have been omitted.

[b] This Act has been declared to apply to the whole of Bengal except the Scheduled Districts by Act XV of 1874, s. 6. It has also been declared in force by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2, in the Sonthal Pergunnahs, and under s. 3 of the Scheduled Districts Act, 1874, in West Jalpáiguri, Western Dwárs, the districts of Hazáribágh, Lohardugga and Manbhoom, Pergunnah Dhalbhoom and the Kolhan—see *infra*, p. 631 and 655.

~~The Act has been repealed in the territories to which the Assam Land and Revenue Regulation, 1886, extends—see Reg. I of 1886, s. 2, Assam Supplement.~~

Certain words and figures in the Act, repealed by Act XVI of 1874, s. 1, have been omitted.

[c] The first five words of s. 1, repealed by Act XVI of 1874, s. 1, have been omitted.

answerable for the jama fixed by thet erms of the settlement now existing for every mahál of such málguzár or body of málguzárs, until a new settlement of such mahál shall be completed and confirmed, according to the provisions of Regulation VII of 1822 and Regulation IX of 1833 of the Bengal Code.

2. [*Málguzár to give notice before 1st August, 1837.*] *Rep. by Act XIV of 1870, s. 1.*

Ref. to act XII of 1887

ACT No. XXVII OF 1839.

Passed on the 16th December, 1839.

An Act for authorizing the Court of Requests for the Town of Calcutta to execute decrees passed by the Judge of the Diwáni Adalát of the zila of the 24-Pergunnahs in certain cases.

Preamble.

1. WHEREAS execution of the decrees of the Courts of Justice of the zila of the 24-Pergunnahs is often defeated by the parties against whom the same have been obtained absconding from the limits of the said zila into the town of Calcutta; and whereas, by Regulation XVI of 1812[a] of the Bengal Code, provision is made, where the like inconvenience occurs by parties absconding from the town of Calcutta into the said zila, for the Judge of the said zila enforcing the judgments of the Court of Requests of the town of Calcutta:

Execution by Court of Requests, Calcutta, of decrees of Courts of 24-Pergunnahs.

It is hereby enacted that, if the defendant in any suit decided by any Court of Justice of the zila of the 24-Pergunnahs, the plaintiff in which shall have obtained a decree, shall retire before execution of the same into the jurisdiction of the Court of Requests, that Court, upon receiving a written application from the Judge of Diwáni Adálat of the zila of the 24-Pergunnahs, setting forth the above circumstances, and accompanied by a copy of the decree duly authenticated, is hereby authorized and directed to proceed to execute the said decree in the mode prescribed for the execution of judgments obtained in the Court of Requests, and on payment of the like costs as are demanded for the execution of such judgments in ordinary cases:

Provided always that nothing in this Act contained shall be held to authorize the said Court of Requests to execute any decree, except the cause of action in respect of which such decree was obtained were such that, if it had occurred within the local jurisdiction of the said Court, it would have been cognizable by the same.

[a] Ben. Reg. XVI of 1812 has been repealed by Act VIII of 1868.

ACT No. XII of 1841.[a]

Passed on the 19th July, 1841.

An Act for amending the Bengal Code in regard to sales of land for arrears of revenue.

1. [*Repeals.*] *Rep. by Act XIV of 1870, s. 1.*

Interest and penalty abolished.

2.[b] There shall be no demand of interest or penalty upon any arrear of land-revenue.

3—35. [*Sale of land for arrears of revenue; local extent; commencement.*] *Rep. by Act I of 1845, s. 1.*

ACT No. IX of 1847.[c]

Passed on the 8th May, 1847.

An Act regarding the assessment of lands gained from the sea or from rivers by alluvion or dereliction within the Provinces of Bengal, Behar and Orissa.

Repeal of enactments.

1. It is hereby enacted that such parts of the Regulations of the Bengal Code as establish tribunals and prescribe rules of procedure for investigations regarding the liability to assessment of lands gained from the sea or from rivers by alluvion or dereliction, or regarding the right of Government to the ownership thereof, shall, from the date of the passing of this Act, cease to have effect within the Provinces of Bengal, Behár and Orissa; and that all such investigations pending before the Collectors and Deputy Collectors in the said Provinces at the said date shall forthwith be discontinued; and that no measures shall hereafter be taken for the assessment of such lands, or for the assertion of the right of Government to the ownership thereof, except under the provisions of this Act.

Investigations as to alluvial lands.

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[a] S. 2 of this Act has been declared to apply to the whole of Bengal except the Scheduled Districts by Act XV of 1874, s. 6. It has also been declared in force by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2, in the Sonthal Pergunnahs, and under s. 3 of the Scheduled Districts Act, 1874, in West Jalpáiguri, the districts of Hazáribágh, Lohardugga and Manbhoom, and Pergunnah Dhalbhoom—see *infra*, pp. 632 and 656.

The Act has been repealed in the territories to which the Assam Land and Revenue Regulation, 1886, extends—see Reg. I of 1886, s. 2, Assam Supplement.

[b] Certain words and figures in s. 2, repealed by Act XVI of 1874, s. 1, have been omitted.

[c] This Act has been declared to apply to the whole of Bengal except the Scheduled Districts by Act XV of 1874, s. 6. It has also been declared in force by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2, in the Sonthal Pergunnahs, and under s. 3 of the Scheduled Districts Act, 1874, in West Jalpáiguri, the districts of Hazáribágh, Lohardugga and Manbhoom, Pergunnah Dhalbhoom and the Kolhan—see *infra*, pp 632 and 657.

The Act has been repealed in the territories to which the Assam Land and Revenue Regulation, 1886, extends—see Reg. I of 1886, s. 2, Assam Supplement.

"Province of Orissa" defined.

2.[a] The expression "Province of Orissa" in this Act shall be taken to mean only so much of the Province of Orissa as is subject to the Government of Bengal.

Power to direct new survey of riparian lands.

3.[a] Within the said Provinces it shall be lawful for the Government of Bengal, in all districts or parts of districts of which a revenue-survey may have been or may hereafter be completed and approved by Government, to direct from time to time, whenever ten years from the approval of any such survey shall have expired, a new survey of lands on the banks of rivers and on the shores of the sea, in order to ascertain the changes that may have taken place since the date of the last previous survey, and to cause new maps to be made according to such new survey.

Date of approval of surveys.

4.[a] The approval of the revenue-surveys of districts or parts of districts which may be hereafter surveyed shall be deemed to have taken place on such day as may be specified as the day of such approval in the Calcutta Government Gazette.

Deduction from jama of estates from which lands have been washed away.

5.[a] Whenever on inspection of any such new map it shall appear to the local revenue-authorities that land has been washed away from or lost to any estate paying revenue directly to Government, they shall without loss of time make a deduction from the sadr jama of the said estate equal to so much of the whole sadr jama of the estate as bears to the whole the same proportion as the mufussal jama of the land lost bears to the mufussal jama of the whole estate; but, if the mufussal jama of the whole estate or of the land lost cannot be ascertained to the satisfaction of the local revenue-authorities, then the said local revenue-authorities shall make a deduction from the sadr jama of the estate equal to so much of the whole sadr jama of the estate as bears to the whole the same proportion as the land lost bears to the whole estate. And this deduction, with the reasons thereof, shall be forthwith reported by the local revenue-authorities for the information and orders of the Sadr Board of Revenue, whose orders thereupon shall be final.

Assessment of increments to revenue-paying estates.

6.[a] Whenever on inspection of any such new map it shall appear to the local revenue-authorities that land has been added to any estate paying revenue directly to Government, they shall without delay assess the same with a revenue payable to Government according to the rules in force for assessing alluvial increments, and shall report their proceedings forthwith to the Sadr Board of Revenue, whose orders thereupon shall be final.

7. [*Power of Local Revenue-authorities to take possession of a new island.*] *Rep. by Ben. Act IV of 1868, s. 1.*

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[a] Certain words in ss. 2, 3, 4, 5 and 6, repealed by Act XVI of 1874, s. 1, have been omitted.

8. *Exception of certain suits from operation of Act.*] *Rep. by Act XIV of 1870, s. 1.*

Indemnity-clause.

9.[a] Except as regards the proprietary right to islands, no suit or action in any Court of Justice shall lie against the Government or any of its officers on account of anything done in good faith in the exercise of the powers conferred by this Act.

ACT No. XX OF 1848.[b]

Passed on the 23rd September, 1848.

An Act for better enforcing the attendance of proprietors and farmers of land before Collectors of land-revenue in the Lower Provinces of the Bengal Presidency.

Preamble.

WHEREAS, by sundry Regulations of the Bengal Code, provision is made for the imposition of a daily fine by the Board of Revenue or other authority exercising the powers of that Board on any proprietor or farmer of land, subject to the provisions contained in the said several Regulations, who, when duly summoned by the Collector or other officer exercising the powers of Collector, shall omit or refuse to attend, or to cause his officer or agent to attend, or to furnish the accounts or documents required, and shall not show sufficient cause for such omission; and it is further provided that the fine, when confirmed by Government, is to be levied by the same process as is prescribed for the recovery of arrears of revenue; and whereas in many cases, by the delay thus occasioned, the whole burden of the penalty is greatly increased beyond what would be necessary if summary power were given to the officer by whom the requisition is made to impose and levy reasonable fines, subject to review by the Commissioner of Revenue and other superior authority; It is enacted as follows:—

Penalty on landholders not attending when summoned by Collector.

I. If any proprietor or farmer of land shall omit or refuse to attend, or to cause his officer or agent to attend, when duly summoned by the Collector, in any case specified in any of the said Regulations, by the time prescribed in the notice issued by the Collector, or shall omit or refuse to furnish the accounts or documents required, and shall not show sufficient cause for such omission,

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[a] Certain words in s. 9, repealed by Act XVI of 1874, s. 1, have been omitted.

[b] This Act has been declared to apply to the whole of Bengal except the Scheduled Districts by Act XV of 1874, s. 6. It has also been declared in force by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2, in the Sonthal Pergunnahs, and under s. 3 of the Scheduled Districts Act, 1874, in West Jalpáiguri, the districts of Hazáribágh, Lohardugga and Manbhoom, Pergunnah Dhalbhoom and the Kolhan—see *infra*, pp. 632 and 658.

The Act has been repealed in the territories to which the Assam Land and Revenue Regulation, 1886, extends—see Reg. I of 1886, s. 2, Assam Supplement.

the Collector may impose of his own authority such daily fine, to be payable daily until compliance with the requisition, as he may think adequate to the situation and circumstances in life of the defaulter, not exceeding in any case the daily fine of fifty rupees: and the amount of such fine, accruing due from time to time, may be levied without further confirmation by the same process as is prescribed for the recovery of arrears of revenue. Levy of fine.

2. The Collector shall forthwith report the imposition of every such fine, and the amount thereof, and also from time to time the amount levied, to the Commissioner of Revenue, who shall report the same for the information of the Local Government. Report of imposition and levy of fine.

3. Every order passed by a Collector under this Act shall be appealable in the usual manner to the Commissioner of Revenue and other superior authority; but no such appeal shall avail to prevent the levy of any fine so imposed pending the appeal. Appeal from Collector's orders.

4. Whenever the amount levied under any such order issued for any default by authority of a Collector under this Act shall have exceeded five hundred rupees, the Collector shall report the case specially to the Commissioner of Revenue; and no further levy for such default shall be made otherwise than by authority of the Commissioner of Revenue. Special report of levy exceeding five hundred rupees.

5. Nothing in this Act contained shall be deemed to repeal the power of imposing daily fines and of levying the fines so imposed in the manner prescribed by the said several Regulations. Saving of power to fine.

6. The word "Collector" used in this Act shall be taken to mean any person lawfully exercising the powers of a Collector. "Collector" defined.

7. This Act shall not extend to the North-West Provinces of the Presidency of Bengal. Extent of Act.

ACT No. XX of 1850.

Passed on the 11th April, 1850.

An Act for settling the boundaries of the Tributary Mahálls in Cuttack.

WHEREAS certain jungle or hill zamindáris in the zila of Cuttack, enumerated in section 36 of Regulation XII, 1805, of the Bengal Code, and the territory of Mayurbhanj in the same zila were temporarily exempted by the said Regulation from the Regulations relating to the settlement and collection of the public revenue, and by Regulation XII, 1805, of the Bengal Code were temporarily exempted from the laws and Regulations for the maintenance of the police and for the administration of justice in criminal cases; and whereas Preamble.

doubts have been entertained how disputes as to the boundaries of the said zamindáris are to be determined; It is enacted as follows:—

Trial of certain boundary disputes.

1. Every case in which the boundaries between any of the said zamindáris or the Qil'as of Baúd and Áthmallik, and an estate subject to the Regulations of the Bengal Code, shall be in dispute, shall be heard, tried and determined in the first instance by the Superintendent of the Tributary Mahálś in zila Cuttack according to such instructions as he shall from time to time receive from the Governor of Bengal, and his award, when confirmed by the Governor of Bengal, shall be final and conclusive, and shall be carried into execution by the Superintendent of Tributary Mahálś by giving possession of the land in dispute to the parties entitled under his award.

ACT No. XXIII of 1850.[a]

Passed on the 8th June, 1850.

An Act for securing the Land-revenue of Calcutta.

Preamble.

WHEREAS it is expedient that the land-revenue accruing due to the East India Company within Calcutta be ascertained and collected in as summary a manner as in other parts of the territories under the government of the East India Company; It is declared and enacted as follows:—

Assessment of unassessed lands

1. All assessable lands, not the property of the East India Company, within the town of Calcutta, of which the rate of assessment is not known, or which have not heretofore been assessed, shall be assessed at the rate of three annas for each katthá.

Lákhiráj tenures

2. Lákhiráj tenures of land in Calcutta, of which uninterrupted possession has been held exempt from assessment for sixty years, shall be valid: no other lákhiráj tenures of land in Calcutta shall be deemed valid unless the same are or shall be held under an unexpired grant from the British Government.

Levy, by distress and sale, of unpaid assessments.

3. If any owner of land within Calcutta, or any person holding land within Calcutta on lease from the East India Company, shall, upon the written demand of the Collector, refuse or neglect to pay any sum at which the land is assessed, or for which he is liable under his lease, the Collector, may levy the same by distress and sale of the goods and chattels, wherever found, of such owner or lessee, or, after written demand upon the tenant or occupier, and his refusal or neglect to pay the sum lawfully demanded, by distress and sale of any goods and chattles found upon the land, in the manner appointed for regulating distress for small rents in Calcutta by [b]the Presidency Small[b]

[a] As to power of Collector of Calcutta to entrust any part of his duties under this Act to his Deputy, see Act XVIII of 1856, s. 3, *infra*, p. 306.

[b-b] These words in s. 3 have been substituted by Act XV of 1882, s. 3.

[a]Cause Courts Act, 1882, Chapter VIII[a]: and, for the purpose of any such distress and sale, the Collector shall have all the powers of [a]the Judges of the Court of Small Causes at Calcutta[a]; and the Collector shall have power to appoint any of his officers to perform the duties of bailiffs and appraisers, and of the chief clerk of the said Court, [b] and all the provisions of the said Act relating to [a] the Judges of the Court of Small Causes at Calcutta[a] and their Court shall be deemed to apply to the said Collector and his office in the execution of this Act. Powers of Collector for distress and sale.

4. In the case of payment by any tenant or occupier not holding immediately under the East India Company, or the seizure and sale of his property, he may deduct the amount of the payment or levy from the next payment of rent to his landlord. Deduction by occupier from landlord's rent.

5. The claim of the East India Company for land-revenue or rent has priority over all other claims upon the land, or to which property distrained upon the land may be liable. Priority of Government claim.

6. If the Collector's claim for arrears of rent is disputed, the process of distraint and sale shall not be stayed, unless the amount claimed be lodged with the Collector. Distress not stayed unless amount lodged.

7. Arrears of rent or revenue which shall become due to the East India Company within the town of Calcutta after the passing of this Act shall be recoverable at any time within six years next after the same are due, or next after an acknowledgment of the same in writing has been given by the person by whom the same is payable or his agent, and not afterwards. Recovery of arrears.

8. When a claim to hold land lákhiráj or free of assessment shall be set up under this Act, the Collector shall inquire into the claim, taking such evidence as the claimant may offer or the public records supply, and shall report his proceedings and decision in the case for the consideration of the Revenue Commissioner. If the Commissioner is satisfied of the validity of the claim, he shall make an order accordingly, and such order shall be final. If he is not satisfied of the validity of the claim, he shall direct the Collector to assess the land, leaving the claimant to contest the Collector's demand in the Civil Courts as herein provided. Inquiry into claims to hold land lákhiráj.

9. Any person obstructing or molesting the Collector or any of his subordinate officers in the execution of their duty shall, on conviction before a Magistrate of the town of Calcutta, be liable to a fine not exceeding five hundred rupees, and, in default of payment, to imprisonment in the common jail for a term not exceeding six months, or until the fine is sooner paid. Penalty for obstructing Collector.

[a-a] These words in s. 3 have been substituted by Act XV of 1882, s. 3.
[b] Certain words in s. 3, repealed by Act XV of 1882, s. 3, have here been omitted.

Power to punish contempts.

10. The Collector may punish any contempt committed in his presence in open kachahri or office, by fine not exceeding two hundred rupees, and, in default of payment, by imprisonment in the common jail for a term not exceeding one month: from every such order, or fine or imprisonment, an appeal shall lie to the Commissioner, whose decision shall be final.

Control of Collector.

11. The Collector shall act in the execution of this Act under the usual control of the superior Revenue-authorities.

Bar of jurisdiction of Supreme Court.

12. The ground-rents payable to the East India Company from lands in Calcutta are revenue within the meaning of the Act of Parliament 21 Geo. III., c. 70, and the Supreme Court of Judicature established by Royal Charter at Fort William in Bengal has not any civil jurisdiction concerning the said ground-rents, or concerning anything ordered or done in the assessment or collection thereof.

Jurisdiction of Courts of Twenty-four Pergunnahs.

13. All actions concerning any trespass or injury committed by any revenue-officer acting under colour of this Act, or concerning any claim in respect of any goods taken by, or any moneys paid to, any revenue-officer under this Act, or concerning any claim of rent or revenue on the part of the East India Company under this Act, shall be tried and determined in the Civil Courts established by the East India Company at the sadr station of the Twenty-four Pergunnahs, notwithstanding that the cause of action in respect of which such action is brought arose, or the defendant therein resides, within the limits of the town of Calcutta: and every such action shall be brought within six months after the cause of action arose, and not afterwards.

Limitation.

"Collector," "Commissioner."

14. The words "Collector" and "Commissioner" used in this Act shall be taken to mean any person lawfully appointed to exercise the powers of Collector and Commissioner respectively.

ACT No. XXV OF 1850.[a]

Passed on the 14th June, 1850.

An Act for the forfeiture to Government of deposits made on incomplete sales of land under Regulation VIII, 1819, and ~~Act IV, 1840.~~[b]

Preamble.

WHEREAS patnidárs ~~and judgment-debtors~~ fraudulently avail themselves

[a] This Act has been declared in force by Reg. III of 1872, s 3, as amended by Reg. III of 1886, s 2, in the Sonthal Pergunnahs, and under s. 3 of the Scheduled Districts Act, 1874, in the districts of Hazáribágh, Lohardugga and Manbhoom, Pergunnah Dhalbhoom and the Kolhan—see *infra*, p. 658.

It has been repealed, so far as it relates to forfeited deposits of sales of land or any interest in land in execution of decrees, by Act X of 1861.

[b] Act IV of 1846 has been repealed by Act XII of 1873.

of the provision in section 9, Regulation VIII, 1819, of the Bengal Code, ~~and in section 5, Act IV, 1846,~~[a] that forfeited deposits at sales of land *in execution of decrees or* for arrears of rent shall be applied as if they were purchase-money; It is enacted as follows:—

1. [*Repeals.*] *Rep. by Act XIV of 1870, s. 1.*

2. Any such forfeited deposit shall be applied to defray the expenses of the sale, and the surplus shall be forfeited to Government. Application of forfeited deposits.

ACT No. XXXIII of 1850.[b]

Passed on the 23rd August, 1850.

An Act for amending the forms necessary for the sale of patni tenures in Bengal.

WHEREAS by clause 2, section 8, Regulation VIII, 1819, of the Bengal Code, it is provided that zamindárs shall be entitled in certain cases to apply for the sale of patni tenures on which the right of sale for an arrear of rent is reserved, by presenting a petition to the Civil Court of the district, and a similar one to the Collector; and whereas the petition to the Civil Court has not been presented previous to many of such sales, and it is not necessary for protection of the patnidár; It is enacted as follows:— Preamble.

1.[c] It shall not be necessary for the zamindár in any such case to present a petition to the Civil Court, but a petition to the Collector shall be sufficient. Petition to Collector only sufficient.

2, 3. [*Sales of patni tenures before passing of Act.*] *Rep. by Act XIV of 1870, s. 1.*

ACT No. XLIV of 1850.[d]

Passed on the 27th of December, 1850.

An Act for consolidating the Board of Customs, Salt and Opium, and the Sadr Board of Revenue in the Lower Provinces of Bengal.

WHEREAS, by Regulation IV, 1819,[e] of the Bengal Code, a Board of Reve- Preamble.

[a] ~~Act IV of 1846 has been repealed by Act XII of 1873.~~

[b] This Act has been declared in force by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2, in the Sonthal Perguunahs, and under s. 3 of the Scheduled Districts Act, 1874, in the district of Manbhoom—see *infra*, p. 658.

[c] The first six words of s. 1, repealed by Act XVI of 1874, s. 1, have been omitted.

[d] This Act has been declared to apply to the whole of Bengal except the Scheduled Districts by Act XV of 1874, s. 6, and under s. 3 of the Scheduled Districts Act, 1874, it has been declared in force in West Jalpáiguri, the districts of Hazáribágh, Lohardugga and Manbhoom, Pergunnah Dhalbhoom and the Kolhan—see *infra*, pp. 633 and 659.

The Act has been repealed in the territories to which the Assam Land and Revenue Regulation, 1886, extends—see Reg. I of 1886, s. 2, Assam Supplement.

[e] Ben. Reg. IV of 1819 has been repealed by s. 1 of this Act.

nue in the Customs, Salt and Opium Department was constituted in the Province of Bengal, with all the duties, powers and authorities of the Board of Revenue with respect to customs and town duties, and with the powers heretofore possessed by the Board of Trade in the Salt and Opium Departments; and whereas it is not now necessary that this Board should be continued separate from the Board of Revenue in the Lower Provinces of Bengal; It is enacted as follows:—

1. [*Repeal of Regulation IV of 1819.*] *Rep. by Act XIV of 1870, s. 1.*

Powers of Board of Customs, Salt and Opium transferred to Sadr Board.

2. All powers and duties now vested in, or belonging to, the Board of Revenue in the Customs, Salt and Opium Department and its officers respectively shall be transferred to the Sadr Board of Revenue constituted in the said Lower Provinces according to Regulation I, 1829, of the Bengal Code, and its officers respectively: and all Acts and Regulations now in force relating to the said Customs, Salt and Opium Board of Revenue or its officers shall be understood henceforth as if the said Sadr Board of Revenue and its officers had been respectively mentioned therein instead of the said Board of Customs, Salt and Opium and its officers.

Style of Board

3. The said Sadr Board of Revenue shall be henceforth styled the Board of Revenue for the Lower Provinces of the Presidency of Fort William in Bengal.

ACT No. VI of 1853.[a]

Passed on the 15th April, 1853.

An Act relating to summary suits for arrears of rent, to sales of patni taluqs and other saleable tenures, and to sales of land in satisfaction of summary decrees for rent.

Preamble.

WHEREAS, by Regulation VIII, 1831,[b] of the Bengal Code the hearing and decision of summary suits or claims relating to arrears or exactions of rents were transferred from the Judges of the Zila or City Courts to the Collectors of land-revenue of the several districts;

and whereas by Regulation VII, 1832,[c] of the Bengal Code the conduct of sales of patni taluqs and other saleable tenures under Regulations VIII, 1819,

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[a] This Act has been declared in force by Reg III of 1872, s. 3, as amended by Reg. III of 1886, s. 2, in the Southal Pergunnahs, and under s. 3 of the Scheduled Districts Act, 1874, in the districts of Hazáribágh, Lohardugga and Manbhoom, Pergunnah Dhalbhoom and the Kolhán—see *infra*, p 659.

[b] Ben Reg VIII of 1831 has been repealed by Act X of 1859.

[c] Ben Reg. VII of 1832 has ben repealed by Act VI of 1871.

and I, 1820, of the same Code, and the performance of other acts preparatory to, or connected with, such sales, were transferred to the Collector or Deputy Collector of land-revenue or head assistant to the Collector or Deputy Collector, subject to an appeal as therein provided;

and whereas by Act VIII, 1835,[a] the power theretofore vested in the Judge of the Diwáni Adálat of selling land in satisfaction of summary decrees for rent was transferred to the Collectors of land-revenue, and it was enacted that all sales for the recovery of arrears of rent held under clause 7, section 15, Regulation VII, 1799,[a] should be conducted by the Collector, his Deputy or duly authorized Assistant, and that ten days' notice should be given of such sales by advertisement to be stuck up at the kachahri of the Zila Court or local Adálat and that of the Collector;

~~and whereas it is expedient that Act XXV, 1850, and section 9, Regulation VIII, 1819, of the Bengal Code, as modified by clause 1, section 16, Regulation VII, 1832,[b] of the same Code, and as altered by the said Act XXV, 1850, should be extended to sales under Act VIII, 1835[a];~~ Rep. X II of 1874

and whereas doubts may be entertained as to who ought to exercise the jurisdiction transferred by the abovementioned Regulations and Acts, where lands situate within the zila or other district of one Collector form part of an entire estate paying revenue to the Collector of another zila or district:

in order therefore to avoid such doubts, and also to define who are the proper officers to exercise such jurisdictions in cases where lands are situate in a district assigned to an independent Deputy Collector, and also in cases where lands held in patni or other tenure at one entire rent are situate in two or more collectorates, ~~and to prevent any such decision or sale already made from being held invalid upon the ground of its having been made by an officer of a wrong district~~; It is enacted as follows:— Rep. X II of 1874

Conduct of sale of lands when all in one collectorate;

1. If the lands which may be the subject of any such sale, or to the rent of which any such suit may relate, be all situate in one collectorate, the Collector of such collectorate is the Collector to conduct the sale or to hear and decide the suit.

when in two or more collectorates.

If one taluq or tenure shall comprise lands situate in two or more collectorates, or if any lands situate in two or more collectorates be held under one lease or engagement or at one entire rent, the Collector in whose collectorate the greater part of such lands shall be situate is the Collector to conduct the

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[a] Act VIII of 1835 and Ben. Reg. VII of 1799 have been repealed by Act XVI of 1874.

[b] ~~Ben. Reg. VII of 1832 has been repealed by Act VI of 1871.~~

sale of such taluq or tenure or of such lands, and to hear and decide any summary suit relating to arrears or exactions of rent in respect thereof.

Procedure in case of doubt as to officer having jurisdiction.

2. If a Collector to whom application shall be made to exercise any of the powers abovementioned shall entertain any doubt as to whether the lands or the greater part of them are situate within his collectorate, he shall report the case for the order of the Board to which he is subordinate, and, if ordered by such Board to proceed in the matter, such order shall be conclusive upon the question of his jurisdiction.

"Collectorate" defined.

3. The word "Collectorate" in this Act means the zila or other district to which a Collector is appointed, and no lands situate beyond the limits of such zila or district shall be deemed to be situate within the collectorate by reason of their forming part of an estate paying revenue to the Collector thereof.

Powers and jurisdiction of independent Deputy Collector.

4. An independent Deputy Collector may, within his deputy collectorate, exercise all the powers and jurisdictions of a Collector with which he may be entrusted, in the same manner and to the same extent as a Collector may do within his collectorate; and, with reference to the exercise of such powers and jurisdictions, his deputy collectorate shall be deemed a collectorate, and he shall be deemed to be a Collector within the meaning of this Act.

"Independent Deputy Collector."

5. An independent Deputy Collector is an officer appointed by Government to act as Deputy Collector independently of a Collector, whether his office is one for the receipt of revenue or not.

"Deputy collectorate."

A deputy collectorate is the district within which an independent Deputy Collector is directed by Government to act.

Publication of notice of sale by independent Deputy Collector.

6. In cases of sales by an independent Deputy Collector under the abovementioned Regulations or Act, any notice thereby required to be stuck up at the kachahri of the Collector may be stuck up at the kachahri of the Deputy Collector.

Exercise of powers of independent Deputy Collector.

7. An independent Deputy Collector may exercise the powers assigned to him over any part of his deputy collectorate in public kachahri, in whatever part of his deputy collectorate the same may be situate or held.

Publication of notice required by law to be advertised.

8. Any notice required by the abovementioned Regulations or Act to be given by advertisement to be stuck up at the kachahri of the Zila Court or local Adálat shall be stuck up at the Zila Court or local Adalat within the jurisdiction of which the lands to be sold, or the greater portion of them, as the case may be, shall be situate.

9. [*Order, &c., not to be disputed on ground that Collector was not the Collector of proper district.*] *Rep. by Act XII of 1873, s. 1.*

10. [*Extension of certain enactments to all sales under Act VIII of 1835.*] *Rep. by Ben. Act VIII of 1865, s. 2.*

ACT No. XIX OF 1853.[a]

Passed on the 2nd December, 1853.

An Act to amend the law of evidence in the Civil Courts of the East India Company in the Bengal Presidency.

1—18. [*Repeals; who may be witnesses; manner of summoning witnesses; contents of summons; how served; person summoned to produce a document.*] *Rep. by Act X of 1861, s. 1.*

19. [*Witness not a party to suit not bound to produce his own title-deeds.*] *Rep. by Act I of 1872, s. 2.*

20—25. [*Privileged communications; punishment for non-compliance with summons.*] *Rep. by Act X of 1861, s. 1.*

Person absconding, &c., to avoid service of summons, &c., liable for damages.

26. Any person, whether a party to the suit or not, to whom a summons to attend and give evidence or produce a document shall be personally delivered, and who shall, without lawful excuse, neglect or refuse to obey such summons, or who shall be proved to have absconded or kept out of the way to avoid being served with such summons, and any person who, being in Court and upon being required by the Court to give evidence or produce a document in his possession, shall, without lawful excuse, refuse to give evidence or sign his deposition, or to produce a document in his possession, shall, ~~*in addition to any proceedings under this Act*~~, be liable to the party at whose request the summons shall have been issued, or at whose instance he shall be required to give evidence or produce the document, for all damages which he may sustain in consequence of such neglect or refusal, or of such absconding or keeping out of the way as aforesaid, to be recovered in civil action.

Rep. × 41 of 1871

27—39. [*Property of person absconding liable for damages; costs and fines; appeal; postponement of trial; evidence to be taken down; evidence of females; power to require further evidence; false evidence of parties punishable; deposition by parties not to be used in their own favour; no appeal against order for summons of witnesses.*] *Rep. by Act X of 1861, s. 1.*

40. *Documents referred to as a material proof to be filed with pleadings.*] *Rep. by Act X of 1855, s. 1.*

41—44. [*Local extent; commencement.*] *Rep. by Act X of 1861, s. 1.*

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[a] S. 26 of this Act has been declared to apply to the whole of Bengal except the Scheduled Districts by Act XV of 1874, s. 6, and under s. 3 of the Scheduled Districts Act, 1874, it has been declared in force in West Jalpáiguri, Western Dwárs, the districts of Hazáribágh, Lohardugga and Manbhoom and Pergunnah Dhalbhoom—see *infra*, pp. 634 and 659; ~~also in the district of Sylhet—see Appendix to Assam Supplement.~~

ACT No. XX OF 1854.

Received the Governor General's assent on the 26th August, 1854.

An Act to amend Regulation XIII of 1833[a] of the Bengal Code.

Preamble.

WHEREAS it is expedient to amend the provisions of Regulation XIII of 1833[a] of the Bengal Code; It is enacted as follows:—

Repeal in part of Regulation XIII of 1833.

1. So much of the said Regulation as prescribes that the officer in whom the duties specified in section 4 of the said Regulation shall be vested, shall be denominated "Agent to the Governor General," is repealed.

Officer appointed by Local Government may exercise all powers by Regulation vested in Agent to Governor General.

2. Such duties shall be vested in any officer whom the Local Government shall, from time to time, appoint for that purpose, and such officer, when appointed, and his assistants respectively, may exercise, within the tracts of country separated as prescribed in the said Regulation, all the powers which, by the said Regulation, the Agent to the Governor General and his assistants respectively may exercise; and all the provisions in the said Regulation relating to the Agent to the Governor General and his assistants shall be applicable to the officer to be appointed as aforesaid and his assistants respectively.

ACT No. XXXII OF 1855[b]

Received the Governor General's assent on the 30th November, 1855.

An Act relating to Embankments.

Preamble.

WHEREAS the Regulations now in force for the maintenance of embankments in the territories under the government of the Lieutenant-Governor of Bengal have been found ineffectual for the intended purposes thereof; and

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[a] Ben Reg. XIII of 1833 has been repealed by Act XII of 1876; ss. 3 and 4 of the Regulation are as follows:—

"3. The under-mentioned tracts of country at present included in the districts of Rámgarh, Jungle Mahâls and Midnapore, shall be separated from those districts, and the operation of the rules for the administration of civil and criminal justice, as well as those for the collection of the land-revenue, customs, ábkári and stamp-revenue, together with all other rules contained in the Regulations printed and published in the manner prescribed by Regulation XLI, 1793, is suspended, and shall cease to have effect therein from the date specified in the preamble of this Regulation, except as hereinafter provided:—

In the district of Ramgarh,—Chota Nagpore, Palámu, Kharagdiha Rámgarh, Kundá.

In the district of Jungle Mahâls,—all the mahâls at present comprised in this district, except the following:—Sámpahári, Shergarh, Bishanpur.

In the district of Midnapore,—Dhalbhoom, including Ghátsilá.

"4. The administration of civil and criminal justice, the collection of revenue, the superintendence of the police, of the land-revenue, customs, ábkári, stamps and every branch of government within the tracts of country separated as prescribed in the foregoing section, shall be vested in an officer appointed by the Governor General in Council, to be denominated *Agent to the Governor General*."

[b] This Act has been repealed, except so far as relates to Orissa and the Sundarbans, by Ben. Act VI of 1873.

As to Orissa, see Ben Act II of 1882 SS. 92-94

whereas it is desirable that provision should be made for the better supervision and protection of the same; It is enacted as follows:—

1. [*Repeal of Regulations VI of 1806 and XI of 1829.*] *Rep. by Act XIV of 1870, s. 1.*

"Embankment" defined

2. The word "embankment" in this Act means an embankment for the purpose of excluding or retaining water; and every embankment which is now kept up, or may hereafter be kept up, by the officers of Government, at the expense either of Government or of any private person, is a public embankment within the meaning hereof.

Superintendent of embankments.

3. The superintendence of the public embankments shall be entrusted, subject to the general orders of Government, to an officer who shall be called the Superintendent of Embankments.

Charge of embankment connecting public embankments, &c.

4. *Clause 1.*—The Superintendent of Embankments may cause any embankment which connects public embankments, or forms by junction with them part of a line of embankments, or is necessary for the protection of the neighbouring country, to be taken charge of and kept up by the officers of Government.

Removing private embankment endangering public one.

Clause 2.—He may also cause any private embankment, which endangers the stability of a public embankment, or obstructs the beneficial drainage of the country, to be removed.

Changing line of embankment or making new one.

Clause 3.—He may also, when necessary, change the line of any public embankment, or make a new embankment.

Enlarging embankment, &c.

Clause 4.—He may also enlarge any public embankment, and do all acts necessary and proper for the maintenance thereof.

Notice to Collector before taking charge, &c.

5. *Clause 1.*—Before the Superintendent shall cause any of the works mentioned in the first three clauses of the next preceding section to be executed, he shall give notice in writing to the Collector of the district of his intention so to do.

Issue of proclamation.

Upon the receipt of such notice the Collector shall cause a proclamation to be issued, incorporating the substance of the notice, and calling upon all persons interested, who may be desirous of showing cause against the execution of such works, to appear before him on a certain day to be named therein.

Publication of proclamation.

Clause 2.—The proclamation shall be published by affixing the same in the kachahri of the Collector, the mál kachahri (if any) of the estate on which the works are intended to be executed, and on some conspicuous spot in the neighbourhood thereof.

The proclamation shall be published not less than fifteen days before the day appointed for hearing the parties interested.

Procedure on appearance of parties.

Clause 3.—The Collector shall hear the objections of any parties who may appear, and, after recording any evidence which they may adduce, shall communicate the objections that may be made, together with his opinion thereon, to the Superintendent of Embankments.

If the Superintendent agree in opinion with the Collector, he shall pass an order accordingly.

If he differ from the Collector, the case shall be referred to the Commissioner of Revenue, who shall pass such orders thereon as he may deem fit.

Appeal from orders of Superintendent and Commissioner.

Clause 4.—Every such order passed by the Superintendent shall be appealable to the Commissioner of Revenue, and every order of the Commissioner shall be appealable to the Board of Revenue; but no appeal shall lie against any order passed under this section, unless the same be presented within one month from the date of the order.

Orders not open to revision by Civil Court.

Clause 5.—Subject to the right of appeal above-mentioned and to the orders and control of Government, every order passed under this section shall be final and shall not be open to revision by any Civil Court, and shall be conclusive as to the necessity of any works ordered to be executed.

Charging cost of maintaining private embankments in charge of Government officers.

6. Whenever the Superintendent of Embankments shall hereafter cause an embankment which any person is bound to keep up to be taken charge of by the officers of Government, the expense of keeping up such embankment shall be charged to such person:

Proviso.

Provided that the amount so charged shall not exceed the reasonable expense of keeping up an embankment of the size and description which such person was bound to keep up, notwithstanding the embankment shall have been enlarged or improved by the officers of Government.

Compensation for damages.

7. *Clause 1.*—When the Superintendent of Embankments shall enlarge or change the line of any embankment, or make a new embankment, or cause an embankment to be removed, any person sustaining damages thereby, who, but for the passing of this Act, would be entitled to compensation, may prefer his claim for such compensation to the Collector of the district, at any time within twelve months after the execution of the work by which he is endamaged, and the Collector thereupon shall report the case for the orders of the superior revenue-authorities.[a]

If the claim be rejected, the claimant shall not be deprived, by reason of this Act, of any right which he might otherwise have had to recover such compensation by a civil action; but such action shall not lie, unless the claimant shall have first preferred his claim to the Collector within the period above-

[a] As to payment of compensation where it is payable by persons whose lands are benefited, see Ben. Act VII of 1866, s. 1.

mentioned, nor unless the suit be brought within a period of one year after notice to the claimant of its rejection.

If the claim for compensation be admitted by the revenue-authorities, and the amount of compensation cannot be agreed upon, the same shall be settled by arbitration, in the manner hereinafter provided, and in no other manner, unless by the consent of the claimant and of the superior revenue-authorities.

Appointment of arbitrators.

Clause 2.—Unless the Collector and the claimant concur in the appointment of a single arbitrator, the Collector on the part of Government, and the claimant, shall each appoint an arbitrator.

The appointment shall be in writing, and neither of the said parties shall have power to revoke the same without the consent of the other.

Arbitrator how chosen when there are several claimants for compensation.

Clause 3.—If there be several claimants for compensation in respect to the same injury, and they cannot agree in the appointment of an arbitrator on their behalf, in that case each of them may nominate one person; and the Collector shall choose by lot out of the persons so nominated by the parties or any of them a person to act as arbitrator on behalf of the claimants.

If only one person shall be so nominated, he shall be the arbitrator on behalf of the claimants.

Appointment of third arbitrator.

Clause 4.—When more than a single arbitrator shall be appointed, the arbitrators shall, before they enter upon the matters referred to them, nominate and appoint by writing a third person to act with them as arbitrator; and, in case the arbitrators shall neglect to appoint such third arbitrator for a period of seven days after having been required so to do, the Collector may appoint such third arbitrator.

If the arbitrators differ in opinion, or if one of them, having received due notice of a meeting of arbitrators, neglect to attend, any two arbitrators may make an award.

Appointment in place of arbitrator not acting.

Clause 5.—If any person on being appointed an arbitrator shall refuse to act, or after accepting the appointment shall die or become incapable of acting, another person shall be appointed in his stead, in the same manner in which the first person was appointed.

Collector empowered to enforce attendance of arbitrators.

Clause 6.—After the arbitrators have accepted the appointment, the Collector shall be competent to exercise towards them such powers and authority, for securing their attendance and the due completion of their award, as the said Collector may legally exercise towards witnesses summoned before him when acting judicially for the purposes of compelling them to attend and give evidence.

In default of award within specified

Clause 7.—If no award be made within a period to be fixed for that purpose by the Collector, he may order that the matter shall be referred to another

period, fresh arbitrators may be chosen.

arbitrator or other arbitrators, to be chosen in the same manner and subject to the same rules as the first.

Collector to furnish information to arbitrators,

Clause 8.—The Collector shall furnish to the arbitrators, or, so far as may be in his power, procure for them, any information which his records or those of any public department may afford connected with the subject of enquiry.

and to enforce attendance and examination of witnesses, &c.

He shall, on the application of the arbitrators, summon any witnesses whom the arbitrators may call for, and whom the parties may not be able to produce before them without such process, and require the persons so summoned to bring and produce before them all such books, papers, deeds, writings, maps and plans as they shall require.

He shall also cause the proper affirmation to be made and signed by any witness whom the arbitrators may desire to examine upon affirmation, or he may empower the arbitrators to cause such affirmation to be made and signed before them.

Penalty on witness not appearing.

Any witness who shall refuse or omit to appear when duly summoned by the Collector, or who shall appear but shall refuse to make such affirmation, or who shall refuse to give evidence, shall be liable to the same punishment which would be incurred under the law by a witness refusing to appear or give evidence before the Collector when acting judicially.

Penalty for false deposition

Any person giving intentionally and deliberately a false deposition under an affirmation, in any case referred to arbitration as above, shall be held to be guilty of perjury, and shall be liable to the penalties prescribed for that offence by law.

Award of arbitrators.

Clause 9.—On the close of the enquiry the arbitrators shall deliver a full and complete award, which shall specify the amount of compensation and the party or parties entitled thereto.

The proceedings of the arbitration shall be deposited in the Collector's office; and every party interested therein shall be entitled to a copy of the award on plain paper under the seal and signature of the Collector, which copy shall be *primâ facie* evidence thereof.

When payment of compensation may be deferred.

Clause 10.—If the right to the compensation awarded shall in any case be doubtful, or if there exist any ground which, in the judgment of the arbitrators or of the Collector, render it improper to make immediate payment thereof to any of the claimants, the amount shall be invested in Government securities, and held in deposit until one of the claimants shall obtain an order of Court for the payment thereof.

Reversal or alteration of award.

Clause 11.—No award passed under this section shall be liable to be reversed or altered, except by the decision of a Civil Court on the ground of

corruption or misconduct of the arbitrators, and no suit to set aside such an award shall be entertained, unless it be instituted within three months from the date of the award.

In case the award shall be so reversed, the matter shall be referred to another arbitrator or other arbitrators, to be appointed in the same manner as the first.

Clause 12.—All suits and proceedings instituted against Government in any case in which compensation has been awarded, except suits instituted for the reversal of awards as aforesaid, shall be dismissed with costs. Dismissal of suits against Government.

But nothing herein contained shall affect the right of any party to recover the amount awarded from any person who may have received the same without any just title thereto. Proviso.

Clause 13.—In fixing the amount of compensation to which any person may be entitled by reason of any of the acts mentioned in clause 1 of this section, the Court or arbitrators, as the case may be, shall take into consideration whether any party to the suit or arbitration has derived or will derive benefit from the act in respect of which the compensation is claimed, and shall set off the estimated value of such benefit, if any, against the compensation which would otherwise be decreed or awarded to that party. Estimated value of benefit to be set off against compensation awarded.

Clause 14.—The provisions of this section shall not be held applicable to cases in which the compensation to be made has reference only to huts, trees or crops which it may be necessary to remove or destroy in enlarging or changing the line of a public embankment. Exception of cases of compensation in respect to huts, trees or crops.

In all such cases the officer in charge of the public embankments of the district shall report to the Collector, and the Collector shall thereupon proceed to value and make compensation for such huts, trees and crops, in the manner prescribed in section 12 of this Act.

8. *Clause 1.*—If any landholder, farmer or cultivator be desirous of having a sluice made in any public embankment for the purpose of drainage or irrigation, he shall make an application in writing to the Collector of the district in which such embankment is situate.[a] Application by landholder to have sluice made in public embankment.

The application shall contain such particulars of the land to be drained or irrigated as may enable the officers of Government to judge of the advantage which may be derived from the work, and shall declare, as regards an embankment maintained at the expense of the State, whether the applicant is willing to bear such part, not exceeding half of the cost thereof, as may be determined by Government; and, as regards any other public embankment, whether the applicant is willing to defray the whole or such part of the cost

[a] As to apportionment of cost of sluice where lands of several owners are benefited, see Ben. Act VII of 1866, s. 6.

incident to, and attendant on, the proposed work, as may be determined as aforesaid.

Officer in immediate charge to report on proposed work.

Clause 2.—The Collector shall transmit such application to the officer in charge of the embankments of the district, who shall report his opinion thereon to the Superintendent of Embankments, and, if he be of opinion that compliance with the application is unobjectionable, shall annex to his report a plan of the proposed work and an estimate of the expense of its construction.

The Superintendent of Embankments shall pass such order thereon as he shall think fit, which order shall be final.

Upon applicant engaging to defray cost, Collector may issue certificate.

Clause 3.—If the construction of the proposed sluice receive the approval of the Superintendent of Embankments, the Collector shall require the applicant to enter into a written agreement to defray the whole or half of the expense or such portion thereof as may be determined under the provisions of clause 1 of this section, as the case may be, and, upon such agreement being executed, shall issue a certificate to the officer in charge of the public embankments of the district to construct the sluice.

Opening of sluices.

9. Sluices constructed in any public embankment shall be opened only by, or with the permission of, the officer in the immediate charge of the embankment, under such orders, either general or special, as he may receive from the officer in charge of the public embankments of the district or from the Superintendent of Embankments.

Officer in immediate charge may authorize temporary watercourse, &c., to be made.

10. Whenever any person is desirous that a temporary watercourse should be made through, or that a temporary roadway should be constructed in any public embankment, or that a temporary dam should be constructed in any embanked river, he shall apply to the nearest officer of the Embankment Department, who shall communicate the application to the officer in charge of the public embankments of the district, and that officer shall pass such orders thereon as he shall think fit, subject to the control of the Superintendent of Embankments.

If the proposed work is to be executed by an officer of Government, the applicant, before the commencement of the work, shall enter into a written agreement to defray the expenses of, and incident to, making such roadway, or of making and closing or removing such watercourse or dam.

In any case of emergency the officer in immediate charge of an embankment, subject to such general instructions as he may receive from the officer in charge of the embankments of the district, or from the Superintendent of Embankments, may cause a temporary watercourse to be made through such embankment.

Annual specifications.

11. *Clause 1.*—Specifications of the work and estimates of the expense

which may be required for the maintenance or improvement of embankments kept up at the expense of zamindárs or others shall be prepared as soon after the rains in each year as may be practicable.

fications and estimates for maintaining or improving embankments kept up at expense of zamindárs.

Copies of the specifications and estimates shall be transmitted to the office of the Collector, and may be examined by any person interested in the embankments.

Notice of the receipt of the specifications and estimates shall be posted up in the Collector's office; and, should any objection be preferred by any such person within a period of one month from the date of such notice, the Collector shall communicate the objection, with his own opinion thereupon, to the Superintendent of Embankments, who shall pass such orders as may appear to him reasonable and proper:

Provided, however, that, if the objection refer to the construction of sluices or other new works, any person dissatisfied with the order of the Superintendent may appeal to the Commissioner, who, subject to the orders of the Board of Revenue and of Government, may disallow the construction of the work.

Accounts to be forwarded to Collector, who may recover as arrears of Government revenue.

Clause 2.—The accounts of the actual expense incurred in maintaining or improving embankments kept up at the expense of zamindárs or others, and in constructing and repairing sluices, and making temporary watercourses or roadways through or over any public embankment, or executing any other work the expense of which may be chargeable to individuals, shall be prepared as soon as possible after the completion of such works, and shall, as soon as such accounts shall have received the sanction of the Superintendent of Embankments, be forwarded to the office of the Collector, and may be there examined by any person interested.

Notice of the receipt of the accounts shall be posted up in the Collector's office; and if, within one month from the date of such notice, any interested person shall object to the accounts, on the ground either that the work charged for has not been performed, or that the whole sum charged has not been expended, or that the rates of charge are higher than the estimate, the Collector shall enquire into such objection, and, if the objection appear to be well founded, shall communicate the same, with his opinion thereon, to the Superintendent of Embankments.

If the Superintendent concur with the Collector, he shall pass orders accordingly; if he differ, the case shall be reported to the Commissioner, whose decision shall be final.

When the objection shall have been finally disposed of, or, if no objection be preferred, when a full month shall have elapsed from the date of notice, the Collector shall proceed to levy the amount from the parties liable to pay the

same, by the process which is or may be in force for the recovery of arrears of Government revenue.

Superintendent to report to Collector as to removal of buildings, &c.

12. *Clause 1.*—Whenever the Superintendent of Embankments shall be of opinion that the removal of any houses, huts or other buildings, situated between a public embankment and the river, is necessary, he shall make a report to that effect, accompanied by a detailed statement of the houses, huts or other buildings to be removed, to the Collector of the district in whose jurisdiction the land on which such houses huts or other buildings stand, is situated.

Collector to give notice to claimants

Clause 2.—When such report is received the Collector shall cause a notice, containing a general description of the houses, huts or other buildings proposed to be removed, to be affixed in some conspicuous place upon the land, and to be published by proclamation in the nearest bázár, calling on all persons claiming a right in such houses, huts or other buildings to appear in person or by authorized agent at a place to be specified in the notice, on or before a given date, not being less than fifteen days from the date of such proclamation, in order to make known the amount and particulars of their claim to compensation to a jury to be appointed in the following manner:—

Selection of jury.

Clause 3.—The Collector shall direct a Deputy Collector or a principal officer of his establishment to proceed to the spot, and there to select three respectable inhabitants of the neighbourhood, to form with himself a jury for determining the value of the houses, huts or buildings, and, if any dispute should arise, the rights of the claimants.

Proceedings of jury.

Clause 4.—The jury shall assess the value of each house, hut or building separately.

If in any case they differ, the value shall be assessed according to the opinion of the majority; and, if they be equally divided, the Deputy Collector or other officer as aforesaid shall have a casting vote.

Award of jury.

Clause 5.—Having completed their proceedings, the jury shall make their award, which shall contain a schedule of the houses, huts and buildings, the amount of value assessed on each, and the name of the person or persons entitled to receive the same.

The award shall be final and conclusive and not open to question in the Civil Court:

Provided always that any person who was not present at the enquiry, or whose claim may have been set aside by the jury, may institute a suit for the value of the property claimed by him against the person to whom payment may have been made under the award.

After award, Collector to give notice of payment, and to remove buildings, &c., in thirty days.

13. The Collector, on receiving the award, shall cause a notice to be affixed in some conspicuous place upon the land, with a citation calling on the parties to appear before him or the Deputy Collector or other officer aforesaid, in person or by authorized agent, at a certain time and place, and receive the amount so awarded, and warning them to remove their houses, huts or other buildings within thirty days from the date of such notice.

When Collector may remove buildings, &c., at cost of owners.

14. If, on the expiration of the above-stated period, the houses, huts or other buildings shall have not been previously removed, the Collector shall cause the same to be removed or levelled; and if any expense be incurred in removing or levelling the same, the Collector may sell the materials at public auction in order to defray the charge, delivering any surplus that may remain to the owner.

Penalty for obstructing officer in discharge of duty.

15. Whoever wilfully obstructs any duly authorized person in removing or levelling any embankment, house, hut or other building shall be liable to be imprisoned for any time not exceeding six months, with or without labour, at the discretion of the Magistrate, or to fine not exceeding two hundred rupees, commutable, if not paid, to a period of imprisonment not exceeding six months, or to both.

Penalty for wilful damage to embankment by cutting, &c.

16. Whoever wilfully, and without due authority, cuts through, or attempts to cut through, any embankment, whether public or private, or destroys or attempts to destroy any such embankment, or opens any sluice or watercourse in any such embankment, shall be liable, on conviction before a Magistrate, to be imprisoned for a term not exceeding one year, with or without labour, or to a fine not exceeding two hundred rupees, commutable, if not paid, to a period of imprisonment not exceeding one year, or to both; or, if the Magistrate be of opinion that such punishment is insufficient for the offence, he may commit the offender to the Sessions Court, in which case he shall be liable, on conviction, to imprisonment for a period not exceeding seven years, with or without labour, or to fine, or to both.

Penalty for other wilful damage.

17. Whoever damages any public embankment by making any dam or other obstruction for the purpose of diverting or opposing the current of an embanked river without the permission of the officer in immediate charge of the embankments, or by refusing or neglecting to remove any such dam or obstruction at the proper season, or by cutting or otherwise altering the banks of any embanked river, or by removing the earth from such embankment, or by grazing or tethering any cattle or other animals on any such embankment, or by driving stakes into, or cutting or rooting out grass growing on, such embankment, or by any other wilful act destroys or diminishes the efficiency of such embankment, shall be liable, on conviction before a Magistrate, to

simple imprisonment for a term not exceeding six months, or to a fine not exceeding two hundred rupees, or to both.

Jurisdiction of Deputy or Assistant Magistrate.

18. Any Deputy or Assistant Magistrate may take cognizance of offences under this Act, and may punish offenders to the extent of the power conferred upon him by the Regulations of the Bengal Code, and by the Acts of the Governor General of India in Council.[a]

19. [*Provision of s. 13 of Reg. XX of 1817 extended to this Act*]. *Rep. by Act XVI of 1874, s. 1.*

Right of appeal.

20. All sentences and orders passed by a Magistrate, Deputy Magistrate or Assistant under this Act shall be appealable, subject to the general provisions which regulate appeals.

Interpretation.

21. In the construction of this Act, words importing the singular number only shall include the plural, and words importing the plural number only shall include the singular; words importing the masculine gender only shall include females; the word "Collector" shall mean any Collector, Deputy Collector or other revenue-officer in independent charge of any district or portion of a district.

ACT No. XXXVII of 1855.[b]

Received the Governor General's assent on the 22nd December, 1855.

An Act to remove from the operation of the general laws and Regulations certain districts inhabited by Sonthals and others, and to place the same under the superintendence of an officer to be specially appointed for that purpose.

Preamble.

WHEREAS the general Regulations and Acts of Government now in force in the Presidency of Bengal are not adapted to the uncivilized race of people called Sonthals, and it is therefore expedient to remove from the operation of such laws the district called the Dámin-i-Koh, and other districts which are inhabited principally by that tribe; it is enacted as follows:—

Districts removed from operation of general Regulations.

1. *Clause 1.*—The districts described in the schedule to this Act are hereby removed from the operation of the general Regulations of the Bengal Code and of the laws passed by the Governor General of India in Council, except so far as is hereinafter provided; and no law which shall hereafter be passed by the

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[a] The last seven words of s. 18, repealed by Act XVI of 1874, s. 1, have been omitted.

[b] This Act has been declared in force in the Sonthal Pergunnahs by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2. It will be repealed by Act XIV of 1874 when that Act is brought into force in the Sonthal Pergunnahs.

For further provisions as to Courts, see Reg. V of 1893, Chapter III

Governor General of India in Council shall be deemed to extend to any part of the said districts, unless the same shall be specially named therein :

Proviso. Provided that nothing herein contained shall ~~extend to or affect any case now pending in any Court~~, nor remove any part of the said districts from the operation of Regulation X of 1804 of the Bengal Code; nor shall this Act affect any revenue-settlement, nor any law relating to the recovery of permanently-settled land-revenue due under the same, nor any law relating to the sale of lands for arrears of revenue, or relating to patni taluqs or to the sale thereof for arrears of rent, nor any law relating to mutations or butwára or to any other matter to which the Lieutenant-Governor of Bengal shall at any time notify in the Calcutta Gazette that the general laws and Regulations shall extend.

Superintendence of districts. *Clause 2.*—The said districts shall be placed under the superintendence and jurisdiction of an officer or officers to be appointed in that behalf by the Lieutenant-Governor of Bengal, and such officer or officers shall be subject to the directions and control of the said Lieutenant-Governor.

Administration of justice and collection of revenue. 2. The administration of civil and criminal justice and the collection of the revenue, not being permanently-settled land-revenue within the said districts, are hereby vested in the officer or officers to be so appointed :

Suits exceeding value of one thousand rupees. Provided that all civil suits in which the matter in dispute shall exceed the value of one thousand rupees shall be tried and determined according to the general laws and Regulations in the same manner as if this Act had not been passed :

Collection of permanently-settled land-revenue. Provided also that all permanently-settled land-revenue shall be collected and paid at the same places and in the same manner as if this Act had not been passed.

Administration of civil and criminal justice. 3. In the administration of civil and criminal justice the officer or officers appointed under this Act ~~shall be guided by the spirit and principle of the civil and criminal laws administered in the Courts of the East India Company in the Presidency of Bengal, but shall not be bound to take the fatwa of a law-officer; and he or they~~ may hold his or their Courts either within the said district or at any place or places that may be appointed for that purpose by the said Lieutenant-Governor; and any person liable to be imprisoned in any civil or criminal jail may be imprisoned in any civil or criminal jail, as the case may be, which the said Lieutenant-Governor may order, whether the same be in or out of the said district.

Decisions final. 4. *Clause 1.*—All decisions in civil suits and sentences in criminal cases, which shall be passed by such officer or officers, to the extent of the powers which may be from time to time conferred upon them respectively by the

Lieutenant-Governor of Bengal according to the provisions of this Act, shall be final:

Confirmation of death-sentence.

Provided that no sentence of death passed by any such officer shall be carried into effect until it shall have been confirmed by the Sadr Court, and provided also that it shall be lawful for the said Lieutenant-Governor to direct

Appeal.

that an appeal shall lie in any class of civil suits or criminal trials from any officer appointed under this Act to any other officer appointed under the same, and also to direct the officer or officers appointed under this Act to refer to the Sadr Court for sentence any class of criminal trials.

Procedure on reference to Sadr Court.

Clause 2.—Upon the receipt of any criminal trial referred to the Sadr Court under clause 1 of this section, the said Court shall, without submitting the proceedings for the fatwa of their law-officer, proceed to pass final judgment or such other order as may seem to the Court requisite and proper, in the same manner as if the trial had been referred in ordinary course by a Sessions Judge; and, in any case in which sentence of death passed by an officer under this Act shall be transmitted to the Sadr Court for confirmation, the said Court may either confirm the same or pass such other judgment warranted by law as may appear to the said Court to be just and proper.

Saving of laws relating to European British subjects.

5. Nothing in this Act shall shall alter the laws now in force with respect to the amenability of European British subjects to any Court or officer for any act of a criminal nature committed within the district.

6. [*Commencement of Act.*] *Rep. by Act XIV of 1870, s. 1.*

SCHEDULE.*

The Dámin-i-Koh.

So much of Pergunnah Bhágalpur and of Pergunnah Satiyári as lies east of the Geruá Nadí and south of a line drawn eastward from Hamzá Chak to the village of Dighi.

Zilla Bhágalpur.	Pergunnah	Tiliyagárhi.	Except such parts of them as are now or may hereafter be situate on the left bank of the main stream of the Ganges, so that in any change in the course of the river the main stream shall be the boundary.
	„	Jamuni.	
	„	Chituliyá.	
	„	Kánkjaul.	
	„	Bahádarpur.	
	„	Akbarnagar.	
	„	Ináyatnagar.	
	„	Makráin.	
	„	Sultánganj.	

* This schedule has been substituted by Act X of 1857, s. 1—*see infra* p. 316.

Zila Bhágalpur.	Pergunnah Ambar. „ Sultánábád. „ Goddá. „ Amolmotiyá. „ Pusni. „ Hándwá. Tappá Manihári. „ Belpattá.	Except such detached villages as lie within the general boundaries of pergunnahs not mentioned in this schedule.
Zila Beerbhoom.	Pergunnah Pabbiyá. Tappá Saruth Deogath. „ Kandit Karaiyá. „ Muhammadábád. Such part of Pergunnah Darin Mauleshwar as lies north of the Chilla or Chandan Ghát Nálá.	

Such detached portions of other pergunnahs and tappás as lie within the general boundaries of any of the above-mentioned pergunnahs and tappás.

Such portions of pergunnahs belonging to Maldah and Purneah below the village of Khidirpur in Pergunnah Tiliyágarhi, as are now or may hereafter be situate on the right bank of the main stream of the Ganges.

ACT No. XII of 1856.*

Received the Governor General's assent on the 9th May, 1856.

An Act to amend the law respecting the employment of Amins by the Civil Courts in the Presidency of Fort William.

Preamble.

WHEREAS the law by which the Civil Courts are authorised to employ amins upon local investigations is defective, and requires amendment; ~~and~~ whereas, in consequence of the extended jurisdiction which has been given to Munsifs and the change which has been made in the constitution of the office, it is no longer expedient that Munsifs should be employed in the attachment and sale of personal property, nor, except on rare and special occasions, in any

* This Act has been declared to apply to the whole of Bengal except the Scheduled Districts by Act XV of 1874, s. 6, and under s. 3 of the Scheduled Districts Act, 1874, it has been declared in force in West Jalpáiguri, Western Dwárs, the districts of Hazáribágh, Lohardugga and Manbhoom and Pergunnah Dhalbhoom—see *infra*, pp. 635 and 660; also in the district of Sylhet—see Appendix to Assam Supplement

of the duties enumerated in sections 50, 51 and 53, Regulation XXVII, 1814[a]; and it is necessary to make provision for the performance of those duties by other agency; It is enacted as follows:—

1. [*Regulations repealed.*] *Rep. by Act XIV of 1870, s. 1.*

Appointment of amins.

2. In each district, officers to be designated Civil Court amins shall be appointed for the purposes of this Act, and shall be remunerated by fixed monthly salaries.

The number of amins to be employed in each district, and the salaries to be allowed to them, shall be determined by the Local Government, with the sanction of the Governor General of India in Council.

Amins by whom appointed and to what Courts attached.

3. The Civil Court amins shall be appointed by the Judge of the district,[b] and the Judge shall from time to time attach them to the several Courts of the district according as the state of business may require:

Provided that an amin attached to any particular Court may, with the sanction of the Judge, be employed occasionally by any other Court.

4. [*Declaration to be made by Civil Court Amins.*] *Rep. by Act X of 1873, s. 2.*

Duties of amins.

5. [c]The Civil Court amins may be employed in any of the following duties:—

i. in investigating or adjusting accounts in any suit or other judicial proceeding;

ii. in making local investigations when the Court may deem investigation on the spot to be requisite and proper for the purpose of elucidating the matters in dispute, or of ascertaining the amount of mesne profits or damages in any suit or other judicial proceeding;

iii. in delivering over possession of lands, houses and other immoveable property in execution of decrees or orders of Court;

iv. in the sale of moveable property, and of houses, gardens and other immoveable property of the kind described in section 3, Regulation VII, 1825[d];

v. in ascertaining the sufficiency of sureties and the means of persons suing *in formâ pauperis*.

6, 7. [*Procedure in referring accounts to Civil Court Amins; procedure in cases of local enquiry.*] *Rep. by Act X of 1861, s. 1.*

Expense of

8. Whenever a Civil Court amin may be employed on any duty connected

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[a] Reg. XXVII of 1814 has been repealed by Act XVI of 1868.
[b] Certain words in s. 3, repealed by Act XII of 1873, s. 1, have here been omitted.
[c] The first nineteen words of s. 5, repealed by Act XII of 1873, s. 1, have been omitted.
[d] Reg. VII of 1825 has been repealed by Act XVI of 1874.

i.e. "orchard, or on all portion of lakhiraj land"

but the reference appears to be saved by S. 1 para 2 of that act

with a pending suit or the execution of a decree, except the sale of property, the Court shall estimate the time which the duty may be expected to occupy, and shall charge for the expense of the amin such fixed rate *per diem* as may be determined by the Sadr Court. Amins how charged.

The amount shall be paid into Court by the party at whose instance or for whose benefit the amin is deputed, and shall be added to the costs of suit.

9. When a Civil Court amin shall be employed to sell property, a deduction at the rate of one anna in the rupee shall be made from the proceeds of the sale. When employed to sell property, deduction from proceeds.

If no sale takes place by reason of the claim being satisfied, or for any other cause, a charge shall be made for the expenses of the amin according to the time he may be employed. Expenses, if no sale takes place.

A deposit to meet this charge, calculated in the manner prescribed in the preceding section, shall be made before the amin is deputed, and shall be returned to the depositor if the sale takes place.

All sums paid for the employment of amins, and all sums deducted from the proceeds of sales, shall be credited to Government.

~~10. Nothing contained in this Act shall be held to prohibit the Civil~~ Courts in the North-Western Provinces of the Presidency of Fort William from making use of the agency of the revenue-officers in investigations and adjustments of accounts connected with land paying revenue to Government.[a] ~~Power of Civil~~ Courts North-Western Provinces, to employ revenue-officers.

Whenever a Tahsildár, a Náib Tahsildár or a Peshkár shall be employed in any such investigation or adjustment under the orders of a Civil Court, he shall possess all the powers vested in Civil Court amins by section 7 of this Act; and the provisions of the said section shall be applicable to the proceedings held by such officer. Powers of officers so employed

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ACT No. XVIII of 1856.

Received the Governor General's assent on the 23rd August, 1856.

An Act relating to the administration of the public revenues in the Town of Calcutta.

WHEREAS it is expedient that the Collector of Calcutta ~~*should have charge of the collection of the stamp-duty within the town of Calcutta,*~~ and that he Preamble.

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[a] Certain words in s. 10, repealed by Act XII of 1873, s. 1, have here been omitted.
[b] So much of the preamble as relates to stamp-duty has been repealed by Act XVIII of 1869,

should have power to employ any Deputy Collector subordinate to him, in the performance of any part of the duties of his office; It is enacted as follows:—

Regulations modified

1. ~~Such part of section 6, Regulation XII, 1826,~~[a] of the Bengal Code, and such part of section 6 of a Rule, Ordinance and Regulation for the town of Calcutta, made and passed on the 14th day of June, 1827, as prescribe that an officer being a civil servant of the Honourable Company shall be especially appointed by the Governor General in Council to take charge of the collection of the stamp-duty within the city of Calcutta, are declared subject to the following modification.

2. [*Collector to have charge of collection of stamp-duty in Calcutta.*] *Rep. by Act XVIII of 1869, s. 2.*

Collector may entrust any part of his duties to his Deputy.

3. It shall be lawful for the Collector of Calcutta to employ any Deputy Collector subordinate to him in the performance of any part of the duties of his office under ~~the said Regulation, or under Act XI of 1849,~~[b] or Act XXIII of 1850; and all Rules, Regulations and Acts relating to the office of Deputy Collector shall be of the same force within the town of Calcutta as in other parts of the territories subject to the Presidency of Fort William in Bengal.

ACT No. XXII OF 1856.

Received the Governor General's assent on the 5th December, 1856.

An Act for establishing a toll on boats and timber passing through the Karatoyá river in the district of Bogra.

Preamble.

WHEREAS it is expedient, with a view to afford facilities for the internal commerce of the districts of Dinagepore, Rungpore and Bogra, to adopt measures for the improvement of the navigation of that part of the Karatoyá river which lies within the district of Bogra, and whereas any measure which may be adopted for this purpose will necessarily occasion a considerable outlay at the first, and an annual expense thereafter, and it is just and reasonable that, to defray the same, a moderate toll should be levied on all boats, timber, rafts and floats passing through or within such part of the said river; and whereas it is expedient to encourage individual enterprise and the employment of private capital on works of public utility; It is enacted at follows:—

Tolls may be levied on Karatoyá;

1. Tolls, at the rates specified in the schedule annexed to this Act may be levied on all boats, timber, rafts and floats passing through or within the

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[a] Ben. Reg XII of 1826 has been repealed by Act XXXVI of 1860.
[b] Act XI of 1849 has been repealed by Ben. Act VII of 1876.

aforesaid part of the Karatoyá river, at such stations or places as the Lieutenant-Governor of Bengal may from time to time appoint.

The said tolls shall be levied by such persons, and under such rules, as the said Lieutenant-Governor may direct; and all such rules shall be duly notified in the English and vernacular Gazettes for public information.

but not till river is made navigable.

2. Provided that no such toll shall be levied until the Lieutenant-Governor of Bengal shall be satisfied, by the report of a competent person, that effective measures have been taken to render the passage through the said part of the Karatoyá river navigable throughout the year:

Provided, also, that the levy of the said tolls shall be continued only so long as the passage is kept so navigable.

Boats, &c., may be detained and sold for non-payment of toll.

3. Any person duly appointed or authorized to collect the said tolls may detain any boat, timber, raft or float for which the toll chargeable under this Act is not paid; and, on the report of such person, which report shall be made within twenty-four hours, the Deputy Collector of Bogra or other public officer duly authorized by Government in that behalf may publish a notice appointing a day for the sale of the same.

At or after the time appointed by the notice, which shall not be less than fifteen days from the date of the publication thereof, if the toll be not paid, or sufficient cause for non-payment be not shown to the satisfaction of the Deputy Collector or other officer as aforesaid, such officer may sell the thing detained, or, in the case of a boat, such part of the tackle or lading thereof, or, in the case of a raft or float, such part of the same, as may be necessary for the recovery of the toll, and shall pay the overplus, if any, to the owner on demand.

Penalty for unlawful detention.

4. Any person who, under colour of this Act, shall unlawfully detain any boat, timber, raft or float, or shall neglect, or without lawful excuse delay, to report the detention of any boat, timber, raft or float, to the Deputy Collector or other officer as aforesaid, or shall demand or receive as toll any larger sum than is authorized by the schedule annexed to this Act, shall, on conviction before a Magistrate or other officer exercising the powers of a Magistrate, forfeit a sum not exceeding two hundred rupees.

Government may authorize person to carry out objects of Act;

5. For the purpose of carrying out the objects of this Act the Lieutenant-Governor of Bengal may authorize any public officer to cut any canal, clear and deepen any channel, stop any watercourse, or take any other measures which may be judged necessary for making the river navigable as aforesaid, or may grant the like authority to any private person who may undertake to carry out those objects at his own expense; and may take possession, as for a public purpose, of any land that may be necessary for the execution of any

of the above-mentioned works, under the provisions of Regulation I of 1824,[a] or of any Act that may hereafter be in force for taking possession of land for public purposes,[b] whether the said works are to be executed at the expense of Government, or of such private person as aforesaid.

and may make grant of tolls.

6. If the Lieutenant-Governor shall grant authority to any private person to carry out the objects of this Act at his own expense, he may also make a grant of the said tolls to such person upon such conditions and for such a term as to the said Lieutenant-Governor shall appear just and proper, and may authorize such person, or any person or persons employed by him, to collect the said tolls.

SCHEDULE.

Of tolls chargeable on boats, timbers, rafts and floats passing into or through the Karatoyá river within the district of Bogra.

Bajrás, bhaunliyás and other boats for personal accommodation . .	Four annas per oar.
Boats of burthen, empty . . .	At the rate of two annas per 100 mds. burthen.
Ditto ditto laden with bricks, tiles and earthenware; straw, grass, reeds, and firewood; fruit and vegetables .	At the rate of four annas per 100 mds. burthen.
Ditto ditto with grain, pulse, seeds and any other article not expressly enumerated .	At the rate of twelve annas per 100 mds. burthen.

Timbers in rafts or otherwise, not being in boats, two annas each timber.

Bamboos in floats, four annas per 100 bamboos.

Every boat less than 50 maunds burthen shall be rated as 25 maunds; every boat of 50 maunds and less than 75 maunds shall be rated as 50 maunds;

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[a] Ben Reg I of 1824 has been repealed by Act VIII of 1868.
e.g. Act X of 1870.

every boat of 75 maunds and less than 100 maunds shall be rated as 75 maunds; every boat of 100 maunds and less than 125 maunds shall be rated as 100 maunds, and so on.

Any number of bamboos less than an even hundred shall be rated as 100.

ACT No. II of 1857.

Received the Governor General's assent on the 24th January, 1857.

An Act to establish and incorporate an University at Calcutta.

Preamble.

WHEREAS, for the better encouragement of Her Majesty's subjects of all classes and denominations within the Presidency of Fort William in Bengal and other parts of India in the pursuit of a regular and liberal course of education, it has been determined to establish an University at Calcutta for the purpose of ascertaining, by means of examination, the persons who have acquired proficiency in different branches of literature, science and art, and of rewarding them by academical degrees as evidence of their respective attainments, and marks of honour proportioned thereunto; and whereas, for effectuating the purposes aforesaid, it is expedient that such University should be incorporated: It is enacted as follows[a]:—

Incorporation.

1. The following persons, namely:—

The Right Honorable CHARLES JOHN VISCOUNT CANNING, Governor General of India;

The Honorable JOHN RUSSELL COLVIN, Lieutenant-Governor of the North-Western Provinces;

The Honorable FREDERICK JAMES HALLIDAY, Lieutenant-Governor of Bengal;

The Honorable Sir JAMES WILLIAM COLVILE, Knight, Chief Justice of the Supreme Court of Judicature in Bengal;

The Right Reverend DANIEL WILSON, Doctor of Divinity, Bishop of Calcutta;

The Honorable GEORGE ANSON, General, Commander-in-Chief of the Forces in India;

The Honorable JOHN ALEXANDER DORIN, Member of the Supreme Council of India;

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[a] The words "that is to say" in the preamble, repealed by Act XII of 1876, s. 1, have here been omitted.

The Honorable JOHN LOW, Major General,
Companion of the Most Honorable Order of the Bath, Member of the Supreme Council of India;

The Honorable JOHN PETER GRANT,
Member of the Supreme Council of India;

The Honorable BARNES PEACOCK,
Member of the Supreme Council of India;

CHARLES ALLEN, Esquire,
Member of the Legislative Council of India;

HENRY RICKETTS, Esquire,
Provisional Member of the Supreme Council of India;

CHARLES BINNY TREVOR, Esquire,
Judge of the Sadr Court in Bengal;

Prince GHOLAM MUHAMMUD;

WILLIAM RITCHIE, Esquire,
Advocate General in Bengal;

CECIL BEADON, Esquire,
Secretary to the Government of India;

Colonel HENRY GOODWYN, of the Bengal Engineers,
Chief Engineer in Bengal;

WILLIAM GORDON YOUNG, Esquire,
Director of Public Instruction in Bengal;

Lieutenant-Colonel WILLIAM ERSKINE BAKER, of the Bengal Engineers,
Secretary to the Government of India;

Lieutenant-Colonel ANDREW SCOTT WAUGH, of the Bengal Engineers,
Surveyor General of India;

KENNETH MACKINNON, Esquire,
Doctor in Medicine;

HODGSON PRATT, Esquire,
Inspector of Schools in Bengal;

HENRY WALKER, Esquire,
Professor of Anatomy and Physiology in the Medical College of Bengal;

THOMAS THOMSON, Esquire,
Doctor in Medicine, Superintendent of the Botanical Garden at Calcutta:

FREDERICK JOHN MOUAT, Esquire,
Doctor in Medicine, and Fellow of the Royal College of Surgeons;

Lieutenant WILLIAM NASSAU LEES, of the Bengal Infantry;

The Reverend WILLIAM KAY,
Doctor of Divinity, Principal of Bishop's College;

The Reverend ALEXANDER DUFF,
Doctor of Divinity;

THOMAS OLDHAM, Esquire,
Superintendent of the Geological Survey of India;

HENRY WOODROW, Esquire;
Inspector of Schools in Bengal;

LEONIDAS CLINT, Esquire,
Principal of the Presidency College;

PROSONNO COOMAR TAGORE,
Clerk Assistant of the Legislative Council of India;

RAMAPERSHAD ROY, Government Pleader in the Sadr Court of Bengal;

The Reverend JAMES OGILVIE, Master of Arts;

The Reverend JOSEPH MULLENS, Bachelor of Arts;

Maulavi MUHAMMUD WUJEEH, Principal of the Calcutta Mudrasa;

ISHWAR CHUNDRA BIDYA SAGUR,
Principal of the Sanscrit College of Calcutta;

RAMGOPAUL GHOSE,
Formerly Member of the Council of Education;

ALEXANDER GRANT, Esquire,
Apothecary to the East India Company;

HENRY STEWART REID, Esquire,
Director of Public Instruction in the North-Western Provinces;

being the first Chancellor, Vice-Chancellor and Fellows of the said University, and all the persons who may hereafter become or be appointed to be Chancellor, Vice-Chancellor or Fellows as hereinafter mentioned, so long as they shall continue to be such Chancellor, Vice-Chancellor or Fellows, are hereby constituted and declared to be one body politic and corporate by the name of the University of Calcutta; and such body politic shall by such name have perpetual succession, and shall have a common seal, and by such name shall sue and be sued, implead and be impleaded, and answer

and be answered unto, in every Court of Justice within the territories ~~in the possession and~~ under the Government of ~~the East~~ India ~~Company.~~

Power to hold and dispose of property.

2. The said body corporate shall be able and capable in law to take, purchase and hold any property, moveable or immoveable, which may become vested in it for the purposes of the said University by virtue of any purchase, grant, testamentary disposition or otherwise; and shall be able and capable in law to grant, demise, alien or otherwise dispose of all or any of the property, moveable or immoveable, belonging to the said University; and also to do all other matters incidental or appertaining to a body corporate.

Constitution of body corporate.

3. The said body corporate shall consist of one Chancellor, one Vice-Chancellor and such number of *ex officio* and other Fellows as the Governor General of India in Council hath already appointed, or shall from time to time, by any order published in the Calcutta Gazette, hereafter appoint; and the Chancellor, Vice-Chancellor and Fellows for the time being shall constitute the Senate of the said University:

Senate.

Office vacated by leaving India.

Provided that, if any person being Chancellor, Vice-Chancellor or Fellow of the said University shall leave India without the intention of returning thereto, his office shall thereupon become vacant.

Chancellor.

4. [a]The Governor General of India for the time being shall be the Chancellor of the said University.

Vice-Chancellor.

5. [a]The office of Vice-Chancellor shall be held for two years only. Whenever a vacancy shall occur in the office of Vice-Chancellor of the said University by death, resignation, departure from India, effluxion of time or otherwise, the Governor General of India in Council shall, by notification in the Calcutta Gazette, nominate a fit and proper person, being one of the Fellows of the said University, to be Vice-Chancellor in the room of the person occasioning such vacancy:

Provided that, on any vacancy in the said office which shall occur by effluxion of time, the Governor General of India in Council shall have power to re-appoint any future Vice-Chancellor to such office.

Fellows.

6. The Lieutenant-Governors of Bengal and the North-Western Provinces, the Chief Justice of the Supreme Court of Judicature at Fort William in Bengal or of any Court of Judicature hereafter to be constituted to or in which the powers of the said Supreme Court may be transferred or vested, the Bishop of Calcutta, and the Members of the Supreme Council of India, all for the time being, shall be *ex officio* Fellows of the said University. The whole number of the Fellows of the said University, exclusive of the Chancellor and

[a] Certain words in ss. 4 and 5, repealed by Act XII of 1876, s. 1, have been omitted.

Vice-Chancellor for the time being, shall never be less than thirty; and, whenever the number of the said Fellows, exclusive as aforesaid, shall by death, resignation, departure from India or otherwise be reduced below thirty, the Governor General of India in Council shall forthwith, by notification in the Calcutta Gazette, nominate so many fit and proper persons to be Fellows of the said University as, with the then Fellows of the said University, shall make the number of such Fellows, exclusive as aforesaid, thirty. But nothing herein contained shall prevent the Governor General of India in Council from nominating more than thirty persons to be Fellows of the said University if he shall see fit.

The appointment of a Fellow may be cancelled.

7. The Governor General of India in Council may cancel the appointment of any person already appointed or hereafter to be appointed a Fellow of the University, and, as soon as such order is notified in the Gazette, the person so appointed shall cease to be a Fellow.

Chancellor, Vice-Chancellor and Fellows to superintend the affairs of the University.

8. The Chancellor, Vice-Chancellor and Fellows for the time being shall have the entire management of and superintendence over the affairs, concerns and property of the said University; and, in all cases unprovided for by this Act, it shall be lawful for the Chancellor, Vice-Chancellor and Fellows to act in such manner as shall appear to them best calculated to promote the purposes intended by the said University. The said Chancellor, Vice-Chancellor and Fellows shall have full power from time to time to make and alter any bye-laws and regulations (so as the same be not repugnant to law, or to the general objects and provisions of this Act) touching the examination for degrees and the granting of the same; and touching the examination for honours and the granting of marks of honour for a higher proficiency in the different branches of literature, science and art; and touching the qualifications of the candidates for degrees and the previous course of instruction to be followed by them, and the preliminary examinations to be submitted to by them; and touching the mode and time of convening the meetings of the Chancellor, Vice-Chancellor and Fellows; and, in general, touching all other matters whatever regarding the said University. And all such bye-laws and regulations, when reduced into writing, and after the common seal of the said University shall have been affixed thereto, shall be binding upon all persons, members of the said University, and all candidates for degrees to be conferred by the same, provided such bye-laws and regulations shall have been first submitted to and shall have received the approval of the Governor General of India in Council.

Bye-laws.

Meetings of the Senate.

9. All questions which shall come before the Chancellor, Vice-Chancellor and Fellows shall be decided at a meeting of the Senate by the majority of

the members present; and the chairman at any such meeting shall have a vote, and, in case of an equality of votes, a second or casting vote. No question shall be decided at any meeting unless the Chancellor, or Vice-Chancellor, and five Fellows, or, in the absence of the Chancellor and Vice-Chancellor, unless six Fellows at the least, shall be present at the time of the decision. At every meeting of the Senate, the Chancellor, or in his absence the Vice-Chancellor, shall preside as chairman; and, in the absence of both, a chairman shall be chosen by the Fellows present, or the major part of them.

Appointment and removal of examiners and officers.

10. The said Chancellor, Vice-Chancellor and Fellows for the time being shall have full power from time to time to appoint, and, as they shall see occasion, to remove all examiners, officers and servants of the said University.

Power to confer degrees.

11. The said Chancellor, Vice-Chancellor and Fellows shall have power, after examination, to confer the several degrees of Bachelor of Arts, Master of Arts, Bachelor of Laws, Licentiate of Medicine, Doctor of Medicine and Master of Civil Engineering; they shall also have power, after examination, to confer upon the candidates for the said several degrees marks of honour for a high degree of proficiency in the different branches of literature, science and art, according to rules to be determined by the bye-laws to be from time to time made by them under the power in that behalf given to them by this Act.[a]

Qualification for admission of candidates for degrees.

12. Except by special order of the Senate, no person shall be admitted as a candidate for the degree of Bachelor of Arts, Master of Arts, Bachelor of Laws, Licentiate of Medicine, Doctor of Medicine or Master of Civil Engineering, unless he shall present to the said Chancellor, Vice-Chancellor and Fellows a certificate from one of the institutions authorized in that behalf by the Governor General of India in Council, to the effect that he has completed the course of instruction prescribed by the Chancellor, Vice-Chancellor and Fellows of the said University, in the bye-laws to be made by them under the power in that behalf given by this Act.

Examination for degrees.

13. The said Chancellor, Vice-Chancellor and Fellows shall cause an examination for degrees to be held at least once in every year; on every such examination the candidates shall be examined either by examiners appointed for the purpose from among the Fellows by the said Chancellor, Vice-Chancellor and Fellows, or by other examiners so to be appointed; and on every such examination the candidates, whether candidates for an ordinary degree or for a degree with honours, shall be examined on as many subjects and in

[a] As to power of conferring degrees, see also Acts XLVII of 1860 and I of 1864.

such manner as the said Chancellor, Vice-Chancellor and Fellows shall appoint.

Grant of degrees.

14. At the conclusion of every examination of the candidates, the examiners shall declare the name of every candidate whom they shall have deemed entitled to any of the said degrees, and his proficiency in relation to other candidates; and also the honours which he may have gained in respect of his proficiency in that department of knowledge in which he is about to graduate; and he shall receive from the said Chancellor a certificate, under the seal of the said University of Calcutta and signed by the said Chancellor or Vice-Chancellor, in which the particulars so stated shall be declared.

Fees.

15. The said Chancellor, Vice-Chancellor, and Fellows shall have power to charge such reasonable fees for the degrees to be conferred by them, and upon admission into the said University, and for continuance therein, as they, with the approbation of the Governor General of India in Council, shall from time to time see fit to impose. Such fees shall be carried to one general fee fund for the payment of expenses of the said University, under the directions and regulations of the Governor General of India in Council, to whom the accounts of income and expenditure of the said University shall once in every year be submitted for such examination and audit as the said Governor General of India in Council may direct.

Annual accounts.

ACT No. X of 1857.[a]

Received the Governor General's assent on the 20th May, 1857.

An Act to amend Act XXXVII of 1855.

Preamble.

WHEREAS by Act XXXVII of 1855[a] certain districts described in the schedule to the said Act were removed from the operation of the general Regulations and Acts; and whereas it is expedient to make certain alterations in respect to the districts so removed; It is enacted as follows:—

Districts removed from operation of general Regulations and Acts.

[b]All the provisions of the said Act, which are applicable to the districts described in the said schedule, shall, after the passing of this Act, be applicable only to the districts described in the schedule to this Act, in the same manner as if the schedule to this Act had been the schedule to Act XXXVII of 1855.[a]

Schedule—[see *supra*, p. 302.]

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[a] This Act and Act XXXVII of 1855 will be repealed by Act XIV of 1874, when that Act is brought into force in the Sonthal Pergunnahs

[b] The rest of s. 1, which has been repealed by Act XIV of 1870, s. 1, has been omitted.

ACT No. XIII OF 1857.[a]

Received the Governor General's assent on the 6th June, 1857.

An Act to consolidate and amend the law relating to the cultivation of the poppy and the manufacture of opium in the Presidency of Fort William in Bengal.

Preamble.

WHEREAS the existing law relating to the cultivation of the poppy and the manufacture of opium on account of Government is in some respects inconsistent with the practice which now obtains under agreement between the Opium Agents and the cultivators, and it is expedient that such inconsistency should be removed; and whereas it is also expedient ~~that certain obsolete Regulations relating to the provision of opium should be formally repealed, and~~ that the laws for preventing the illicit cultivation of the poppy, and for regulating the cultivation of the poppy and the manufacture of opium on account of Government, should be consolidated and amended; It is enacted as follows:—

1. [*Laws repealed.*] *Rep. by Act XIV of 1870, s. 1.*

2. [*Prohibition of poppy cultivation and opium manufacture.*] *Rep. by Act I of 1878, s. 2.*

Officers entrusted with superintendence of provision of opium.

3. The superintendence of the provision of opium for Government shall be entrusted to Agents or other officers, being covenanted servants of the Company duly appointed by Government in that behalf, who shall perform the duties connected therewith under the control and direction of the Board of Revenue in Calcutta.

Assistants to Agents.

The Agents or other officers as aforesaid shall be assisted by Deputy Agents and Sub-deputy Agents, or such other officers, covenanted or uncovenanted, as the Government may from time to time appoint for the purpose.

Collector *ex officio* Deputy Agent.

The Collector of the district shall ordinarily, and unless Government shall otherwise direct, be *ex officio* Deputy Agent; and the relative duties and powers of the Deputy Agents and Sub-deputy Agents shall be from time to time regulated by the said Board with the sanction of Government.

Officers amen-

4. The Opium Agents, and their subordinate officers of every description,

[a] This Act has been declared to apply to the whole of Bengal except the Scheduled Districts by Act XV of 1874, s. 6 It has also been declared in force by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2, in the Sonthal Pergunnahs, and under s. 3 of the Scheduled Districts Act, 1874, in West Jalpáiguri, the districts of Hazáribágh, Lohardugga and Manbhoom, Pergunnah Dhalbhoom and the Kolhan—see *infra*, pp. 636 and 661; ~~also in the district of Sylhet—see Appendix to Assam Supplement.~~

are declared amenable to the Civil Courts for all acts done by them in their official capacity, except as otherwise herein provided. able to Civil Courts.

But no suit shall be instituted against an Agent, or any subordinate officer, for any act done in his official capacity, unless the person who shall consider himself aggrieved by the act of such Agent or officer shall have first made application for redress to the Agent himself. Bar of suit without previous application to Agent for redress.

In the event of such person not being satisfied with the order which the Agent may pass upon his application, it shall then be competent to him either to lay his case by petition before the Board of Revenue, or at once to seek redress in the Civil Court.

5. The Opium Agents shall not in their official capacity institute any suit in a Civil Court without the previous sanction of the Board of Revenue. Sanction to suit by Agent.

6. In cases in which the Board of Revenue may judge it expedient, or in which they may be so directed by Government, they may take upon themselves, or intrust to an officer specially appointed for the purpose, the superintendence of the prosecution or defence of any suit or appeal in which they or an Agent, or any other officer subordinate to them, may be engaged, instead of leaving such superintendence to the Agent or any other officer. Board may in certain cases appoint officer to conduct or defend suits.

7. The Board of Revenue, with the sanction of Government, shall from time to time fix the limits within which licenses may be given for the cultivation of the poppy on account of Government. Board to fix limits of cultivation and price to be paid to cultivators.

With the like sanction they shall from time to time fix the price to be paid to the cultivators for the opium produced.

The price shall be fixed at a certain sum per ser of eighty tolas for opium of a certain standard consistence, and shall be subject to a rateable reduction, according to a scale sanctioned by the Board of Revenue, for opium of a consistence below the standard.

8. The Sub-deputy Agents or other officers entrusted with the superintendence of the cultivation shall, at the proper period of the year, issue licenses to the cultivators who may choose to engage to cultivate the poppy and to deliver the produce to the officers of Government at the established rates. Issue of licenses.

Every license shall specify the number of bighás which the party engages and is authorized to cultivate, and shall be in such form as the Agent, with the sanction of the Board of Revenue, may direct. What to be specified in license.

A counterpart-engagement, in conformity with the tenour of the license, shall be taken from the cultivator.

9. It shall be at the option of every cultivator to enter into engagements for the cultivation of the poppy or not as he may think fit; and any Sub-deputy Agent or other officer as aforesaid, or any inferior officer employed in Cultivator to have option to engage to cultivate or not.

Officers compelling cultivator to engage liable to be dismissed.

the provision of opium, who shall compel, or use any means to compel, any cultivator to enter into engagements, or to receive advances, for the cultivation of the poppy, shall be liable to be dismissed from his situation.

Sub-deputy Agent may withhold license to cultivate.

It shall be at the option of the Sub-deputy Agent or other officer as aforesaid to withhold a license from any cultivator whenever he may think proper so to do.

Appeal.

Any person to whom a license has been refused may appeal to the Agent, and the decision of the Agent shall be final.

Penalty on cultivator receiving advances and not cultivating full quantity of land.

10. If it shall be found that any cultivator who has received advances from Government has not cultivated the full quantity of land for which he received such advances, he shall be liable to a penalty of three times the amount of the advances received for the land which he has failed to cultivate; and the said penalty may be adjudged by the Deputy Agent or Collector, on the complaint of the Sub-deputy Agent or other officer as aforesaid.

Adjudication of penalty.

Appeal.

Any person dissatisfied with the judgment of the Deputy Agent or Collector may appeal to the Agent, and the decision of the Agent shall be final.

Delivery of opium produced.

11. All opium the produce of land cultivated with poppy on account of Government shall be delivered by the cultivators to the Sub-deputy Agents or other district-officers, or shall be brought by them to the sadr factory, as the Agent may direct.

Opium not liable to distress or attachment.

And no such opium shall be liable to be distrained or attached by a zamindár or other proprietor, or a farmer of land, for the recovery of arrears of rent, or by any other creditor of a cultivator under any order or decree of Court, but

Value thereof may be attached.

the sum due to the cultivator on account of such opium may be attached by order of Court in the hands of the Agent or of the district-officer under the rules in force for such attachments.

Opium to be weighed and classified by Sub-deputy Agent.

12. All opium delivered by the cultivators to the Sub-deputy Agent or other district-officer shall, before it is forwarded to the sadr factory, be weighed, examined and classified according to its quality and consistence by that officer, or his assistant if duly authorized by the Agent in that behalf, in the presence of the cultivators and in conformity with rules sanctioned by the Board of Revenue.

Proceeding where cultivator is dissatisfied with classification.

Any cultivator who may be dissatisfied with the classification of the district-officer shall be at liberty either to take his opium to the sadr factory, or to have it forwarded thither by such officer separate from the opium respecting which no dispute has arisen.

Weighing and examination at sadr factory.

13. All opium forwarded by the district-officers to the sadr factory, and all opium delivered at the sadr factory by the cultivators, shall be there weighed

and examined by the Opium Examiner or other officer duly authorized in that behalf, agreeably to rules sanctioned by the Board of Revenue; and the quality and consistence of the opium, and the deductions from or additions (if any) to the standard price to be made in accordance with the said rules, shall be determined by the result of such examination.

The decision of the Examiner, or of the Agent in cases in which a reference to the Agent may be prescribed by the said rules, shall be final and conclusive, and not open to question in any Court.

Confiscation of adulterated opium.

14. When opium delivered by a cultivator, either to a district-officer, or at the sadr factory, is suspected of being adulterated with any foreign substance, it shall be immediately sealed up pending examination by the Opium Examiner, and notice of such intended examination shall be given to the cultivator.

Adjudication of confiscation.

If upon such examination the opium shall be found to be so adulterated, the Agent on the report of the Examiner may order that it be confiscated, and the order of the Agent shall be final and not open to question in any Court.

Weights and scales; examination thereof.

15. The weights and scales made use of in the sadr factories and at the district kothis shall be provided by the Board of Revenue.

Every district-officer shall annually, before beginning to weigh the opium of the season, examine the weights and scales in use in his district and shall report the result of such examination to the Agent.

The Agent shall make a similar examination of the weights and scales of the sadr factory, and shall report the result to the Board.

No weights or scales shall be made use of which on any such examination have not been found to be strictly accurate.

It shall be the duty of all officers who may superintend the weighing of opium to see that the opium is weighed fairly with an even beam, and the practice of taking excess weight for the purpose of turning the scale, or as an allowance for dryage and wastage, is hereby prohibited.

Adjustment of cultivators accounts, and recovery of balance by distress.

16. The accounts of the cultivators shall be adjusted annually by the district-officers as soon after the conclusion of the weighing and examination as possible; and any balance that may remain due from any cultivator, or from any mahtó or intermediate manager, may be recovered by the district-officer by distress and sale of the property of the defaulter or of his surety, in the same manner and under the same rules as the property of defaulting cultivators in estates held khás may be distrained and sold by the Collector for the recovery of an arrear of rent or revenue:

Sanction to issue of warrant.

Provided that no warrant of distress and sale shall be issued by any district-officer without the sanction of the Agent previously obtained.

Penalty on

17. Any officer of the Opium Department who shall receive any fee,

officer taking bribes.

gratuity, perquisite or allowance, either in money or effects, under any pretence whatsoever, from any cultivator or from any other person employed or concerned in the provision of opium, other than the authorized allowances of his situation, shall be dismissed from his office, and, on conviction before a Magistrate, shall be liable to a fine not exceeding five hundred rupees.

Exactions by landholder from raiyat recoverable, together with penalty, in summary suit before Collector.

18. If any zamindár or other proprietor of land, or any farmer of land, shall exact from any raiyat on account of his poppy land any illegal cess or any higher rate of rent than he is lawfully entitled to demand, the raiyat, or the Sub-deputy Agent or other district-officer on his behalf, may institute a suit before the Collector, and recover from such proprietor or farmer the sum exacted by him in excess of his lawful demand, together with a penalty of treble the amount of such excess; and such suit shall be tried according to the rules prescribed for suits instituted before a Collector relating to arrears or exactions of rent.

Penalty for embezzlement of opium by cultivator.

19. Any cultivator entering into engagements for the cultivation of the poppy on account of Government who may embezzle, or otherwise illegally dispose of, any part of the opium produced shall be liable to a penalty not exceeding ten times the fixed price of the opium which he may be proved to have so disposed of, or to a fine not exceeding five hundred rupees if the amount of the said penalty be less than that sum, and the opium, if found, shall be liable to confiscation.

Penalty for illegal purchase of opium from cultivator;

20. Any person purchasing or receiving any opium from a cultivator or other person who may have entered into engagements for the cultivation of the poppy, or who may be employed in the provision of opium on account of Government, or bargaining for the purchase of opium with such cultivator or person, or in any way causing or encouraging such cultivator or person to embezzle or illegally dispose of any opium, and any officer of the Opium Department conniving in any way at the embezzlement or illegal disposal of any opium, shall be liable to a fine not exceeding one thousand rupees, unless the opium purchased, bargained for or illegally disposed of shall exceed the weight of thirty-one sers and a quarter, in which case the fine may be increased, at a rate not exceeding thirty-two rupees per ser for all such opium in excess of that weight; and the opium, if found, shall be liable to confiscation.

and for illegal connivance at embezzlement by Opium-officer.

Penalty for unlicensed cultivation.

21. Any person who shall cultivate the poppy without license from a Sub-deputy Agent or other officer duly authorized in that behalf, and any person who shall in any way cause, encourage or promote such illegal cultivation, shall be liable to a fine not exceeding five hundred rupees, unless the quantity of land so illegally cultivated shall exceed twenty bighás, in which case the fine may be at the rate of twenty-five rupees per bighá; and the poppy plants

shall be destroyed, or, if any opium have been extracted from them, it shall be seized and confiscated.

If the opium shall have been extracted and shall not be seized, the offender shall be liable to a further fine not exceeding the rate of thirty-two rupees per bighá of land illegally cultivated.

Duty of landholders and others to give information of illegal cultivation.

22. All proprietors, farmers, tahsildárs, gumáshtas and other managers of land shall give immediate information to the police or abkári dároghas, or opium gumáshtas, or to the Magistrates, Collectors or officers in charge of the abkári mahál, or to the Agents, their deputies or sub-deputies, of all poppy which may be illegally cultivated within the estates or farms held or managed by them; and every proprietor, farmer, tahsildár, gumáshta or other manager of land, who shall knowingly neglect to give such information, shall be liable to the penalties for illegal cultivation prescribed in the last preceding section.

Duty of police and other officers to give information of illegal cultivation.

23. All police and abkári dároghas, and opium gumáshtas, and all Native officers of Government of whatever description, and all chaukidárs, paiks and other village police-officers, shall give immediate information to the authority to which they are subordinate when it may come to their knowledge that any land has been illegally cultivated with poppy; and such authority shall transmit the information to the Sub-deputy Agent or other officer superintending the cultivation of the poppy if in a district where the poppy is cultivated on account of Government, or to the Collector or officer in charge of the abkári mahál if in a district where the poppy is not so cultivated.

Every police or abkári dárogha, opium gumáshta, Native officer, chaukidár or other police-officer as aforesaid, who shall neglect to give such information, or shall in any respect connive at the illicit cultivation of the poppy, shall be liable to a fine not exceeding one thousand rupees if the offender be an officer of the Opium Department, or in any other case to a fine not exceeding five hundred rupees.

Police or abkári dárogha how to proceed in case of illegal cultivation.

24. Whenever a police or abkári dárogha or opium gumáshta shall receive intelligence of any land within his jurisdiction having been illegally cultivated with poppy, he shall immediately proceed to the spot, and, if the information be correct, shall attach the crop so illegally cultivated, and report the same without delay to the authority to which he may be subordinate.

He shall at the same time take security from the cultivator of the said land for his appearance before the Magistrate; and, in the event of such cultivator not giving the required security, he shall send him in custody to the Magistrate.

Landholders, &c., may

25. Proprietors, farmers, tahsildárs, gumáshtas and other managers of land shall be at liberty to attach any poppy growu in opposition to the

attach in cases of illegal cultivation.

provisions of this Act in any estate or farm held or managed by them, and shall immediately report such attachment to the nearest police or abkári dárogha or opium gumáshta, who shall thereupon proceed in conformity with the rules contained in the last preceding section.

Adjudication of penalties.

26. Except as otherwise herein provided, all fines, penalties and confiscations prescribed by this Act shall be adjudged by the Magistrate on the information of the Deputy Agent or Sub-deputy Agent in districts in which the poppy is cultivated on account of Government, and in other districts on the information of the Collector or officer in charge of the abkári mahál:

Provided that no information of an offence against this Act shall be admitted unless it be preferred within the period of one year after the commission of the offence to which the information refers.

Imprisonment in default of payment of fine.

27. When any person is sentenced to pay any fine or penalty under this Act, such person, in default of payment of the same, may be imprisoned by order of the Magistrate for any time not exceeding six months or until the fine is sooner paid.

Punishment for repetition of offences

28. Whenever any person shall be convicted of an offence against this Act after having been previously convicted of a like offence, he shall be liable, in addition to the penalty attached to such offence, to imprisonment for a period not exceeding six months; and a like punishment of imprisonment not exceeding six months shall be incurred, in addition to the punishment which may be inflicted for a first offence, upon every subsequent conviction after the second.

Place of imprisonment under section 28.

29. Every person who shall be imprisoned under the last preceding section, or on account of the non-payment of any fine or penalty prescribed by this Act, unless such person be an officer of Government or a village-police-officer convicted of an offence under section 17, 20 or 23, shall be imprisoned in the civil jail.

Disposal of fines and forfeitures.

30. One-half of all fines and penalties levied from persons convicted of offences under sections 19, 20 and 21 of this Act, together with a reward of one rupee eight annas for each ser of opium confiscated and declared by the Civil Surgeon to be fit for use, shall, upon adjudication of the case, be awarded to the officer or officers who apprehended the offender, and the other half of such fines and forfeitures, together with a reward of one rupee eight annas for each ser of opium confiscated as aforesaid, shall be given to the informer.

If in any case the fine or penalty is not realized, the Board of Revenue may grant such reasonable reward, not exceeding the sum of two hundred rupees, as may seem to them fit.

31. The Governor General of India in Council may authorize, by an order of Government, the cultivation of the poppy and the manufacture of opium in any district or districts without license from a Sub-deputy Opium Agent or other officer of Government; and, when such order has been published, all the provisions of this Act shall cease to have effect in such district or districts:

Governor General may allow free cultivation of poppy and manufacture of opium in any district.

Provided always that the Government may prescribe rules for the delivery of the opium so produced to officers of Government appointed to receive it; and, when such rules have been passed, any cultivator or other person engaged in the cultivation of the poppy and manufacture of opium who shall dispose of any opium otherwise than is allowed by such rules, and any person who shall purchase or receive any such opium in contravention of the said rules, shall be subject to the penalties prescribed in section 19 of this Act; and such penalties may be adjudged by a Magistrate on the information of any officer of Government or of any other person.

Power to prescribe rules for delivery to Government officers.

ACT No. XXI OF 1857.[a]

Received the Governor General's assent on the 10th July, 1857.

An Act to make better provision for the order and good government[b] of the station of Howrah.

WHEREAS Acts have been passed for regulating the police and for the conservancy and improvement of the Town of Calcutta and of the other presidency-towns; and whereas large portions of[b] the station of Howrah are not less populous than parts of the said town, and it will conduce to the order and good government of the said[b] station that some of the provisions of the said Acts, with certain necessary modifications, should be extended to the said[b] station; It is enacted as follows:—

Preamble.

1. Whoever is charged with having committed any of the offences mentioned in this Act within the limits of the said[b] station, as described in the schedule hereunto annexed, may be tried for any such offence by the Magistrate within whose jurisdiction the offence is alleged to have been committed, and, on conviction, may be sentenced by such Magistrate to the punishment hereinafter prescribed for the offence.

Cases under this Act by whom to be tried.

2. *Clause 1.*—Whoever has in his possession, or conveys in any manner,

Possession of stolen pro-

[a] This Act has been repealed in so far as it applied to the suburbs of the town of Calcutta by Bom. Acts II of 1866, s. 52, and VIII of 1868, s. 1.

[b] Certain words in the title, the preamble and s. 1 referring to the suburbs of Calcutta, repealed by Act XVI of 1874, s. 1, have here been omitted.

perty by one who fails to account satisfactorily therefor.

any thing which may be reasonably suspected of being stolen or fraudulently obtained, shall, if he fail to account satisfactorily how he came by the same, be liable to a penalty not exceeding one hundred rupees, or to imprisonment, with or without hard labour, for any term not exceeding three months.

Power to summon persons declared to have had possession of stolen property within the jurisdiction of the Magistrate.

Clause 2.—If any person, charged with having or conveying any thing stolen or fraudulently obtained, shall declare that he received the same from some other person, or that he was employed as a carrier, agent or servant, to convey the same for some other person, the Magistrate may cause every such other person, and also, if necessary, every former or pretended purchaser or other person through whose possession the same shall have passed (provided that such other person shall be alleged to have had possession of the same within the jurisdiction of such Magistrate) to be brought before him and examined, and shall examine witnesses touching the same;

Penalty if such possession fraudulent.

and if it appear to such Magistrate that any person so brought before him had possession of such thing, and had reasonable cause to believe the same to have been stolen or unlawfully obtained, such person shall be liable to a penalty not exceeding one hundred rupees, or to imprisonment, with or without hard labour, for any term not exceeding three months.

Apprehension and punishment of reputed thieves, &c.

3. Any person found, between sunset and sunrise, armed with any dangerous or offensive instrument whatsoever, with intent to commit any offence against the person or property of another; any reputed thief found, between sunset and sunrise, on board any vessel or boat, or lying or loitering in any bázár, street, road, yard, thoroughfare or other place, who shall not give a satisfactory account of himself; any person found, between sunset and sunrise, having his face covered or otherwise disguised, with intent to commit any such offence as aforesaid; any person found, between sunset and sunrise, in any dwelling-house or other building whatsoever, without being able satisfactorily to account for his presence therein; and any person having in his possession, without lawful excuse (the proof of which excuse shall be on such person), any implement of house-breaking, shall be liable to imprisonment, with or without hard labour, for a term not exceeding three months; and any such person may be taken into custody by any police-officer without a warrant.

4—6. [*Penalty for carrying arms without authority; order for maintenance of wives or children; penalty for harbouring deserters from merchant-vessels.*] *Rep. by Ben. Act III of 1884, s. 2.*

Brothels

7. On the complaint of three or more householders that a house in their immediate neighbourhood is used as a common brothel or lodging-house for prostitutes or disorderly persons of any description, to the annoyance of the

respectable inhabitants of the vicinity, the Magistrate may summon the owner or tenant of the house to answer the complaint; and on being satisfied that the house is so used, and is therefore a source of annoyance and offence to the neighbours, may order the owner or tenant to discontinue such use of it; and, if he shall fail to comply with such order within five days, may impose upon him a fine to the extent of twenty-five rupees for every day thereafter that the house shall be so used.

8, 9. [*Licenses for retail sale of spirituous liquors; revocation of licenses.*] *Rep. by Ben. Act III of 1884, s. 2.*

Penalty for owning or keeping, or having charge of, a gaming-house, &c.

10. Whoever, being the owner or occupier, or having the use, of any house, room or place, keeps or uses the same as a common gaming-house; and whoever, being the owner or occupier of any house or room, knowingly and wilfully permits the same to be kept or used by any other person as a common gaming-house, and whoever has the care or management of, or in any manner assists in conducting, the business of any house, room or place so kept or used, and whoever advances or furnishes money for the purpose of gaming with persons frequenting such house, room or place, shall be liable to a fine not exceeding two hundred rupees, or to imprisonment, with or without hard labour, for any term not exceeding three months.

Penalty for being found playing in a gaming-house.

11. Whoever is found in any such house, room or place, playing or gaming with cards, dice, counters, money or other instruments of gaming, or is found there present for the purpose of gaming, whether playing for any money, wager, stake or otherwise, shall be liable to a fine not exceeding one hundred rupees, or to imprisonment, with or without hard labour, for any term not exceeding one month; and any person found in any common gaming-house during any gaming or playing therein shall be presumed, until the contrary be proved, to have been there for the purpose of gaming.

Magistrate may authorize certain police officers to enter gaming-house for search and seizure.

12. If the Magistrate, upon information on oath, and after such enquiry as he may think necessary, has reason to believe that any house, room or place is used as a common gaming-house, he may, by his warrant, give authority to any superior officer of police to enter, with such assistance as may be found necessary, by night or by day, and by force if necessary, any such house, room or other place, and to take into custody all persons whom he finds therein, whether or not then actually gaming, and to seize all instruments of gaming, and all moneys and securities for money, and articles of value, reasonably suspected to have been used or intended to be used for the purpose of gaming which are found therein, and to search all parts of the house, room or place which he shall have so entered, when he has reason to believe that any instruments of gaming are concealed therein, and also the persons of those whom he

so takes into custody, and to seize and take possession of all instruments of gaming found upon such search.

On conviction for keeping a gaming-house, instruments of gaming to be destroyed, &c.

13. On conviction of any person for keeping any such common gaming-house or being present therein for the purpose of gaming, all the instruments of gaming found therein shall be destroyed by order of the Magistrate, who may also order all or any of the securities for money, and other articles seized, not being intruments of gaming, to be sold and converted into money, and the proceeds thereof, with all moneys seized therein, to be forfeited, or, in his discretion, may order any part thereof to be returned to the persons appearing to have been severally thereunto entitled.

Portion of fine may be paid to informer.

14. The Magistrate may direct any portion, not exceeding one-fourth, of any fine which shall be levied under sections 10 and 11 of this Act, or any part of the moneys or proceeds of articles seized and ordered to be forfeited under section 13, to be paid to an informer.

Gambling in streets.

15. A police-officer may apprehend without warrant any person found gaming with cards, dice, counters, money or other instruments of gaming, in any public street, place or thoroughfare; and such person shall be liable to a fine not exceeding twenty rupees, or to imprisonment, with or without hard labour, for any term not exceeding one month; and such instruments of gaming and money shall be forfeited.

16, 17. [*Pawnbrokers to report stolen property; when to be deemed receivers of stolen goods.*] *Rep. by Ben. Act III of 1884, s. 2.*

Manufacture or possession of gunpowder.

18. Whoever manufactures gunpowder, or without a license from the Magistrate has in his possession, in any house, shop, warehouse or other building, at any one time, a greater quantity of gunpowder than ten pounds, shall be liable to a fine not exceeding two hundred rupees, and also to forfeit such gunpowder so manufactured or possessed, together with the vessel or receptacle in which it may be contained.

Licenses by Magistrate for sale and deposit of gunpowder, &c.

19. The Magistrate may grant to any person a license for the sale or keeping in deposit of any quantity of gunpowder not exceeding fifty pounds, on such conditions, and for such term not exceeding one year, as shall be specified in the license; and any person who shall be guilty of a breach of any of such conditions shall be liable to a fine not exceeding one hundred rupees, and to forfeit all gunpowder so kept in deposit contrary thereto, and the vessels containing it, and also to forfeit his license.

Penalty for drunkenness, or riotous or indecent behaviour in public.

20. Whoever is found drunk and incapable of taking care of himself or is guilty of any riotous or indecent behaviour in any street or thoroughfare or in any place of public amusement or resort, and whoever is guilty of violent behaviour in any police-office, shall be liable to a fine not exceeding twenty

rupees, or to imprisonment, with or without hard labour, for a term not exceeding fourteen days.

Penalty for committing nuisance in streets.

21. Whoever wilfully and indecently exposes his person, or commits a nuisance by easing himself in or by the side of or near to any public street or thoroughfare or place, shall be liable to a fine not exceeding ten rupees, or, in default of payment thereof, to imprisonment, with or without hard labour, for a term not exceeding fourteen days.

Beggars.

22. Whoever in any public road, street, thoroughfare or place begs or applies for alms, or exposes or exhibits any sores, wounds, bodily ailment or deformity, with the object of exciting charity or of obtaining alms, or whoever seeks for or obtains alms, by means of any false statement or pretences, shall be liable to imprisonment, with or without hard labour, for any term not exceeding one month.

Penalty for committing in public streets the offences of—

furious or negligent driving or riding:

letting loose horses, ferocious dogs, &c.:

leaving cart, &c., without control:

obstructing passengers:

ill-treating animals:

lighting fires, discharging guns, fire-works, &c.

23. Whoever, in any public street, road, thoroughfare or place of public resort, commits any of the following offences, shall be liable to a fine not exceeding twenty rupees:—

i.—Whoever drives or rides any animal, or drives any vehicle, in a manner so rash or negligent as to indicate a want of due regard for the safety of others:

ii.—Whoever negligently lets loose any horse, or suffers to be at large any ferocious dog without a muzzle, or sets on or urges any dog or other animal to attack, worry or put in fear any person, horse or other animal:

iii.—Whoever being in charge of a cart, carriage or horse, leaves it at such a distance as not to have the same under the control:

iv.—Whoever fastens any animal so as to cause obstruction or danger to passengers:

v.—Whoever cruelly beats, abuses or tortures any animal:

Whoever sets fire to or burns any straw or other matter, or lights any bonfire, or wantonly discharges any fire-arm or air-gun, or lets off or throws any fire-work, or sends up any fire-balloon.

24. [*Beating drums, tomtoms, &c.*] *Rep. by Ben. Act III of 1884, s. 2.*

25—32. [*Penalty for depositing dirt on street; allowing sewerage to flow on street; future obstructions in street; taking up pavement; removal of future projections from houses; of existing projections; houses projecting to be set back when taken down; power to trim hedges bordering on roads.*] *Rep. by Ben. Act V of 1876, s. 2.*

33—37. [*Houses in dangerous state; sale of materials; penalty for not removing filth; filthy houses, &c.; filthy cattle-stalls, &c.*] *Rep. by Ben. Act III of 1884, s. 2.*

38. [*Licensing of public necessaries.*] *Rep. by Ben. Act V of 1876, s. 2.*

39. [*Neglecting private drains.*] *Rep. by Ben. Act III of 1884, s. 2.*

40—45. [*Penalty for fouling water; power to fill up unwholesome tanks; to drain off stagnant pools; penalty for not lighting deposits or excavations; dangerous places to be enclosed; penalty for establishing slaughter-houses without license.*] *Rep. by Ben. Act V of 1876, s. 2.*

46. [*Unclean slaughter-houses.*] *Rep. by Ben. Act III of 1884, s. 2.*

47—50. [*Penalty for establishing offensive trades; constructing burial-grounds; power to close such burial-grounds; stray dogs.*] *Rep. by Ben. Act V of 1876, s. 2.*

Police-officer may arrest without warrant on view of offence.

51. Any police-officer may arrest without a warrant any person committing in his view any offence against this Act, if the name and address of such person be unknown to him.

Police may take into custody, without warrant, persons charged with recent aggravated assault.

52. Any police-officer may take into custody, without a warrant, any person who is charged with committing an aggravated assault, in every case in which he shall have good reason to believe that such assault has been committed, although not in his view, and that, by reason of the recent commission of the offence, a warrant could not have been obtained for the apprehension of the offender.

Persons taken into custody by police without warrant may be detained in police-office until brought before Magistrate or bailed.

53. Every person taken into custody without a warrant by a police-officer under this Act shall be taken to the nearest police-office, in order that such person may be detained until he can be brought before the Magistrate, or until he shall enter into recognizances, with or without sureties, for his appearance before the Magistrate.

Any person so detained and not entering into recognizances shall be carried before the Magistrate within twenty-four hours from the time of his being taken into custody.

Procedure on information or complaint laid before Magistrate of offence against Act.

54. Upon any information or complaint laid before the Magistrate of any offence committed against this Act, the Magistrate may summon the person charged to appear at a time to be mentioned in the summons, or, if he see sufficient cause for so doing, may issue a warrant for his apprehension.

The provisions of the general Regulations of the Bengal Code and Acts of the Government of India for the time being in force, relative to the issue and service of summonses and warrants, to the summons, attendance and examination of witnesses, and generally to the trial of cases, to the recovery of fines and penalties and to appeals against orders and sentences passed by a Magistrate, shall be applicable to all cases under this Act:

Provided that, in all cases of offences punishable with fine only, if after

due service of summons the person charged shall not appear in pursuance thereof, the Magistrate, at his discretion, may hear and determine the case in his absence:

~~Provided also that no appeal shall lie from any order of a Magistrate passed with the sanction of the Lieutenant-Governor of Bengal, under section 40[a] of this Act.~~

Recovery of costs or expenses.

55. In all cases where any costs or expenses are by this Act directed to be paid, the amount of the same shall be ascertained and determined by the Magistrate; and the Magistrate may, for that purpose, summon the parties, and examine them and the witnesses on their behalf; and such amount, together with the costs of the enquiry, shall be recoverable in the same manner as fines may be recovered.

Jurisdiction.

56. Any Joint Magistrate or Deputy Magistrate duly authorized to exercise the powers of a Magistrate, and any Assistant vested with special powers, may, in cases referred to him by the Magistrate, exercise all the powers vested in a Magistrate by this Act.

Application of fines.

57. All fines imposed and levied under this Act shall be applied in aid of any fund applicable to police and conservancy purposes in the said station; and all costs and expenses which the Magistrate is hereby authorized to incur shall be paid from and repaid to such fund, or, if there be no such fund, all such fines as aforesaid shall be applied by the Magistrate to the cleansing or otherwise improving of the said station.

Act to supersede provisions of Act XXI of 1841.

58. ~~With respect to all matters expressly provided for by this Act, and~~ within the limits subject to the same, the provisions of this Act shall be held to supersede the provisions of Act XXI of 1841.

Interpretation.

59. In the construction of this Act words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number; words importing the masculine gender shall include females.

SCHEDULE.[b]

Of Places included in the Station of Howrah.

STATION OF HOWRAH.

Howrah, (including)
Panchánantalá.
Juláhápárá.
Chándmári (with Tandel Bágán).

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[a] ~~S. 40 of this Act has been repealed—see preceding page.~~

[b] The part of the schedule headed "Suburbs of Calcutta," repealed by Act XVI of 1874, s. 1, has been omitted.

North Betrá.
South Betrá.
Ichápur.
Saunpur.
Goládángá.
Rámkrishnapur.
Khurát (with Kasondiyá).
Chakarber.
Sántrágáchhi.
Sathgharra.
Gudár Hát (with Kinkar Chatterjea's Hát).
Battore.

Shibpur (with Báji Shibpur, Majerhát, Bharpára, Bhattatalá, Sriharinaupárá, Bishop's College and Company's Botanical Garden).
Padmapukhar.
South Baksará.
North Baksará.

Salkiya, (including) Bándéghát (with Haraganj and Bánurjyapárá).
Ghoosery (with Bhát Bágán).
Málipánchghará.
Barrackpur.
Bellur.
Naksha.
Chakpára.
Nallua.
Belgáchhiyá (with Paikán Belgáchhiyá).
Báhmangachchhi.
Chaurásta (with Dharmtalá, Goghátá and Bábudángá).
Golábári (with Filkhána).

ACT No. XXXI OF 1858.[a]

Received the Governor General's assent on the 24th August, 1858.

An Act to make further provision for the settlement of land gained by alluvion in the Presidency of Fort William in Bengal.

Preamble. WHEREAS, for the removal of doubts respecting the course proper to be

[a] This Act has been declared to apply to the whole of Bengal except the Scheduled Districts by Act XV of 1874, s. 6. It has also been declared in force by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2, in the Sonthal Pergunnahs, and under s. 3 of the Scheduled Districts Act, 1874, in West Jalpáiguri, the districts of Hazáribágh, Lohardugga and Manbhoom, Pergunnah Dhalbhoom and the Kolhan—see *infra*, pp. 636 and 661.

~~The Act has been repealed in the territories to which the Assam Land and Revenue Regulation, 1886, extends—see Reg. I of 1886, s. 2, Assam Supplement.~~

followed in the settlement of land added by alluvial accession to estates paying revenue to Government, it is expedient to lay down certain rules to be observed in the settlement of such land; it is enacted as follows:—

Addition of revenue assessed upon alluvial land to jama of original estate.

1. When land added by alluvial accession to an estate paying revenue to Government becomes liable to assessment, if it be so agreed on between the revenue-authorities and the proprietor or proprietors, the revenue assessed upon the alluvial land may be added to the jama of the original estate; and in such case a new engagement shall be executed for the payment of the aggregate amount, and that amount shall be substituted in the Collector's rent-roll for the former jama of the original estate.

When separate settlement to be made.

If the proprietor or proprietors object to such an arrangement, or if the revenue-authorities are of opinion that a settlement of the alluvial land cannot properly be made for the same term as the existing settlement of the original estate, the alluvial land shall be assessed and settled as a separate estate with a separate jama, and shall thenceforward be regarded and treated as in all respects separate from and independent of the original estate, whether the separate settlement be made with the proprietor or proprietors or the land be let in farm in consequence of the refusal of the proprietor or proprietors to accept the terms of settlement.

The separate settlement may be permanent, if the settlement of the original estate is permanent.

Rights of under-tenants in alluvial land.

2. Nothing contained in the preceding section shall affect the rights of any under-tenant in any alluvial land under the provisions of clause 1, section 4, Regulation XI, 1825.

It shall be the duty of all officers making settlements of such land, whether the land be settled separately or incorporated with the original estate, to ascertain and record all such rights according to the rules prescribed in Regulation VII, 1822; and to determine whether any and what additional rent shall be payable in respect of the alluvial land by the person or persons entitled to any under-tenure in the original estate.

The provisions of the said Regulation, so far as the same may be applicable, are hereby declared to extend to all settlements made under this Act.

Separate settlements heretofore made.

3. Every separate settlement of alluvial land heretofore made shall be as good and effectual for the purposes specified in section 1 as the same would have been if made subsequently to the passing of this Act:

Saving of rights.

Provided that nothing contained in this Act shall be held to affect the rights which any person may have acquired, under a judicial decision or otherwise, before the passing of this Act.

ACT No. XL OF 1858.[a]

Received the Governor General's assent on the 11th December, 1858.

An Act for making better provision for the care of the persons and property of minors in the Presidency of Fort William in Bengal.

Preamble.

WHEREAS it is expedient to make better provision for the care of the persons and property of minors not brought under the superintendence of the Court of Wards; It is enacted as follows:—

1. [*Regulations repealed.*] *Rep. by Act XIV of 1870, s. 1.*

Care of persons and property of minors not under Court of Wards.

2. Except in the case of proprietors of estates paying revenue to Government who have been or shall be taken under the protection of the Court of Wards, the care of the persons of all minors (not being European British subjects) and the charge of their property shall be subject to the jurisdiction of the Civil Court.

Who may apply for certificate of administration.

3. Every person who shall claim a right to have charge of property in trust for a minor under a will or deed, or by reason of nearness of kin or otherwise, may apply to the Civil Court for a certificate of administration;

No person to sue or defend suit without certificate.

and no person shall be entitled to institute or defend any suit connected with the estate of which he claims the charge until he shall have obtained such certificate:

Power to allow relative of minor to act.

Provided that, when the property is of small value, or for any other sufficient reason, any Court having jurisdiction may allow any relative of a minor to institute or defend a suit on his behalf, although a certificate of administration has not been granted to such relative.

Who may apply to Court to appoint person to take charge of minor's property.

4. Any relative or friend of a minor in respect of whose property such certificate has not been granted, or, if the property consist in whole or in part of land or any interest in land, the Collector of the district, may apply to the Civil Court to appoint a fit person to take charge of the property and person of such minor.

Application where property in more than one district.

5. If the property be situate in more than one district, any such application as aforesaid shall be made to the Civil Court of the district in which the minor has his residence.

[a] This Act has been declared to apply to the whole of Bengal except the Scheduled Districts by Act XV of 1874, s. 6. It has also been declared in force by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2, in the Sonthal Pergunnahs, and under s. 3 of the Scheduled Districts Act, 1874, in West Jalpáiguri, the districts of Hazáribágh, Lohardugga and Manbhoom, Pergunnah Dhalbhoom and the Kolhan—see *infra*, pp. 636 and 661; also in the districts of Sylhet, Kámrúp, Nowgong, Darrang, Sibságar, Lakhimpur, Goálpára (excluding the Eastern Dwárs) and Cachar (excluding the North Cachar Hills)—see Appendix to Assam Supplement.

For power of High Court to authorise a subordinate Court or Munsif in Bengal or Assam to take cognizance of proceedings under this Act, see Act XII of 1887, s. 23 (2) (*b*).

Procedure of Court on application.

6. When application shall have been made to the Civil Court either by a person claiming a right to have charge of the property of a minor or by any relative or friend of a minor, or by the Collector, the Court shall issue notice of the application and fix a day for hearing the same.

On the day so fixed, or as soon after as may be convenient, the Court shall enquire summarily into the circumstances and pass orders in the case:

Reference to subordinate Court.

Provided always that it shall be competent to the Civil Court to direct any Court subordinate to it to make such enquiry and report the result.

Certificate of administration to whom to be granted.

7. If it shall appear that any person claiming a right to have charge of the property of a minor is entitled to such right by virtue of a will or deed, and is willing to undertake the trust, the Court shall grant a certificate of administration to such person.

If there is no person so entitled, or if such person is unwilling to undertake the trust, and there is any near relative of the minor who is willing and fit to be entrusted with the charge of his property, the Court may grant a certificate to such relative.

Court may appoint guardian.

The Court may also, if it think fit (unless a guardian have been appointed by the father), appoint such person as aforesaid or such relative or any other relative or friend of the minor to be guardian of the person of the minor.

Court may call for report as to relative or friend.

8. The Court may call upon the Collector or Magistrate for a report on the character and qualification of any relative or friend of the minor who may be desirous or willing to be entrusted with the charge of his property or person.

Proceeding if no title to certificate be established, and if there be no relative fit to be entrusted with property.

9. If no title to a certificate be established to the satisfaction of the Court by a person claiming under a will or deed, and if there be no near relative willing and fit to be entrusted with the charge of the property of the minor, and the Court shall think it to be necessary for the interest of the minor that provision should be made by the Court for the charge of his property and person, the Court may proceed to make such provision in the manner hereinafter provided.

When Court may grant certificate to Public Curator or other person.

10. If the estate of the minor consist of moveable property or of houses, gardens or the like, the Court may grant a certificate to the Public Curator appointed under section 19, Act XIX of 1841 (*for the protection of moveable and immoveable property against wrongful possession in certain cases*), or, if there be no Public Curator, to any fit person whom the Court may appoint for the purpose.

Appointment of guardian.

11. Whenever the Court shall grant a certificate of administration to the estate of a minor to the Public Curator or other person as aforesaid, it shall at the same time appoint a guardian to take charge of the person and maintenance of the minor.

The person to whom a certificate of administration has been granted, unless he be the Public Curator, may be appointed guardian.

Guardian's allowance.

If the person appointed to be guardian be unwilling to discharge the trust gratuitously, the Court may assign him such allowance, to be paid out of the estate of the minor, as under the circumstances of the case it may think suitable.

Minor's allowance.

The Court may also fix such allowance as it may think proper for the maintenance of the minor; and such allowance and the allowance of the guardian (if any) shall be paid to the guardian by the Public Curator or other person as aforesaid.

12. [*When Court may direct Collector to take charge of estate; appointment of manager and guardian thereupon.*] *Rep. by Ben. Act IX of 1879, s. 2.*

Costs of enquiries.

13. In all enquiries held by the Civil Court under this Act the Court may make such order as to the payment of costs by the person on whose application the enquiry was made, or out of the estate of the minor or otherwise, as it may think proper.

14, 15. [*When Civil Court may direct Collector to retain charge of shares and persons of certain minors; control of proceedings of Collector.*] *Rep. by Ben. Act IX of 1879, s. 2.*

Public Curator, &c., to furnish inventory,

16. The Public Curator and every other administrator to whom a certificate shall have been granted under section 10 shall, within six months from the date of the certificate, deliver in Court an inventory of any immoveable property belonging to the minor, and of all such sums of money, goods, effects and things as he shall have received on account of the estate, together with a statement of all debts due by or to the same.

and annual accounts.

And the Public Curator and every such other administrator shall furnish annually, within three months from the close of the year of the era current in the district, an account of the property in his charge, exhibiting the amounts received and disbursed on account of the estate, and the balance in hand.

Proceeding if accuracy of inventory or account be impugned.

If any relative or friend of a minor or any public officer, by petition to the Court, shall impugn the accuracy of the said inventory and statement or of any annual account, the Court may summon the curator or administrator and enquire summarily into the matter and make such order thereon as it shall think proper, or the Court at its discretion may refer such petition to any subordinate Court.

Payment of surplus into treasury.

17. All sums received by the Public Curator or such other administrator on account of any estate, in excess of what may be required for the current expenses of the minor or of the estate, shall be paid into the public treasury

on account of the estate, and may be invested from time to time in the public securities. Investment.

18. Every person to whom a certificate shall have been granted under the provisions of this Act may exercise the same powers in the management of the estate as might have been exercised by the proprietor if not a minor, and may collect and pay all just claims, debts and liabilities due to or by the estate of the minor. Powers of person to whom certificate granted, in management of minor's estate.

But no such person shall have power to sell or mortgage any immoveable property, or to grant a lease thereof for any period exceeding five years, without an order of the Civil Court previously obtained.

19. It shall be lawful for any relative or friend of a minor, at any time during the continuance of the minority, to sue for an account from any manager appointed under this Act, or from any person to whom a certificate shall have been granted under the provisions of this Act, or from any such manager or person after his removal from office or trust, or from his personal representative in case of his death, in respect of any estate then or formerly under his care or management, or of any sums of money or other property received by him on account of such estate. Relative or friend may sue for account.

20. If the disqualification of a person for whose benefit a suit shall have been instituted under this Act cease before the final decision thereof, it shall be lawful for such person to continue the prosecution of the suit on his own behalf. Continuance of suit after disqualification ceases.

21. The Civil Court for any sufficient cause may recall any certificate granted under this Act[a], or may grant a certificate to the Public Curator or any other person, as the case may be; and may compel the person whose certificate has been recalled to make over the property in his hands to his successor, and to account to such successor for all moneys received and disbursed by him. Revocation of certificate.

The Court may also for any sufficient cause remove any guardian appointed by the Court. Removal of guardian.

22. The Civil Court may impose a fine not exceeding five hundred rupees on any person who may wilfully neglect or refuse to deliver his accounts or any property in his hands, within the prescribed time, or a time fixed by the Court; and may realize such fine by attachment and sale of his property under the rules in force for the execution of decrees of Court; and may also commit the recusant to close custody until he shall consent to deliver such accounts or property. Penalty for neglect or refusal to deliver accounts or property.

23. The Civil Court may permit any person to whom a certificate shall have been granted under this Act, not being the Public Curator, and any Civil Court may permit

[a] Certain words of s. 21, repealed by Ben. Act IX of 1879, s 2, have here been omitted.

resignation of trust, &c.

guardian appointed by the Court, to resign his trust, and may give him a discharge therefrom on his accounting to his successor, duly appointed, for all moneys received and disbursed by him, and making over the property in his hands.

Remuneration of Public Curator, &c.

24. The Public Curator and every other administrator to whom a certificate shall have been granted under section 10 shall be entitled to receive such commission not exceeding five per centum on the sums received and disbursed by him, or such other allowance, to be paid out of the minor's estate, as the Civil Court shall think fit.

Guardians of minors to provide for education.

25.[a] Every guardian appointed by the Civil Court or by the Collector under this Act, who shall have charge of any male minor, shall be bound to provide for his education in a suitable manner.

Act XXVI of 1854 declared applicable.

The general superintendence and control of the education of all such minors shall be vested in the Civil Court or in the Collector, as the case may be; and the provisions of Act XXVI of 1854[b] (*for making better provision for the education of male minors subject to the superintendence of the Court of Wards*) shall, so far as is consistent with the provisions herein contained, be applicable to the Civil Court or to the Collector, as the case may be, in respect to such minors, and to every such guardian.

Persons under 18 years held minors.

26. For the purposes of this Act every person shall be held to be a minor who has not attained the age of eighteen years.

Act not to authorize appointment of guardians of certain married women and other persons.

27. Nothing in this Act shall authorize the appointment of a guardian of the person of a female whose husband is not a minor, or the appointment of a guardian of the person of any minor whose father is living and is not a minor; and nothing in this Act shall authorize the appointment of any person other than a female as the guardian of the person of a female.

Guardianship in certain cases when to cease.

If a guardian of the person of a minor be appointed during the minority of the father or husband of the minor, the guardianship shall cease as soon as the father or husband (as the case may be) shall attain the age of majority.

Appeals.

28. All orders passed by the Civil Court or by any subordinate Court under this Act shall be open to appeal under the rules in force for appeals, in miscellaneous cases, from the orders of such Court and the subordinate Courts.

Construction of "Civil Court."

29. The expression "Civil Court" as used in this Act shall be held to mean the principal Court of original jurisdiction in the district, and shall not include the Supreme Court: and nothing contained in this Act shall be held to affect the powers of the Supreme Court over the person or property of any minor subject to its jurisdiction.

Powers of Supreme Court not affected

[a] S. 25 has been repealed by Ben. Act IV of 1870, s. 86, so far as it relates to any guardian appointed thereunder.

[b] Act XXVI of 1854 has been repealed in Bengal by the Court of Wards Act, 1870—see Ben. Act IV of 1870, s. 86.

Unless the contrary appears from the context, words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number; and words importing the masculine gender shall include females. Number. Gender.

ACT No. V of 1859.[a]

Received the Governor General's assent on the 4th March, 1859.

An Act to empower the holders of ghátwáli lands in the district of Beerbhoom to grant leases extending beyond the period of their own possession.

WHEREAS it has been held that the ghátwáls of the district of Beerbhoom who pay the revenue of their lands directly to Government under the provisions of Regulation XXIX, 1814, of the Bengal Code have not the power of alienating their lands; and whereas, for the development of the mineral resources of the country in which the said ghátwáli lands are situate, and for the improvement of the said lands, it is expedient that the power of granting leases for periods not limited by the term of their own possession should in certain cases be extended to the possessors of such lands; It is enacted as follows:— Preamble.

1. Ghatwals holding lands in the district of Beerbhoom under the provisions of the aforesaid Regulation shall have the same power of granting leases for any period which they may deem most conducive to the improvement of their tenures as is allowed by law to the proprietors of other lands: Right of ghátwáls of Beerbhoom to grant leases.

Provided that no lease of ghátwáli lands for any period extending beyond the lifetime or incumbency of the grantor of the lease shall be valid and binding on the successors of the grantor, unless the same shall be granted for the working of mines or for the clearing of jungle, or for the erection of dwelling-houses or manufactories, or for tanks, canals and similar works, and shall be approved by the Commissioner of the division, such approval being certified by an endorsement on the lease under the signature of the Commissioner. Proviso.

2. If any of the said ghátwáli lands be at any time under the superintendence of the Court of Wards, or otherwise subject to the direct control of the officers of Government, it shall be lawful for the Court of Wards or the Commissioner to grant leases for any such purpose as aforesaid; and every lease so granted shall be valid and binding on all future possessors of the said lands, anything in the existing law to the contrary notwithstanding. Court of Wards and revenue-authorities have like power in certain cases.

[a] This Act has been declared in force in the Sonthal Pergunnahs by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2.

RECOVERY OF RENT ACT.

ARRANGEMENT OF SECTIONS.

SECTIONS.

1. [*Repealed.*]
2. Raiyat entitled to pattá.
3. Raiyats holding land at fixed rates to receive pattás.
4. If rent of land be not changed for twenty years.
5. Raiyats having right of occupancy, but not holding at fixed rates, to receive pattás.
6. Right of occupancy of raiyat cultivating or holding land for twelve years.
7. Saving of terms of written contracts.
8. Pattás to raiyats not having rights of occupancy.
9. Person granting pattá entitled to counterpart-engagement.
10. Exactions in excess of rent or receipt withheld.
    Form of receipt.
11. Landholder not to compel attendance of tenant for adjustment of rent, &c.
    Payment of rent how enforced.
12. Damages for extorting payment of rent by duress.
13. Enhancement of rent of raiyat holding without, or after expiry, &c., of, written engagement.
14. Mode of contesting enhancement of rent.
15. Dependent taluqdár, &c., holding at fixed rent without change since permanent settlement, not liable to enhancement.
16. Rent of taluqdár, &c., not changed for twenty years to be *primâ facie* evidence of occupancy at that rent since permanent settlement.
17. Rent of raiyat having right of occupancy not to be enhanced unless—
    rate paid by him is below that prevailing in adjacent places;
    value of land, &c., has increased independently of raiyat;
    quantity of land held by raiyat is greater than he has paid for.
18. When raiyat may claim abatement of rent.
19. Relinquishment of land by raiyat after notice.
20. What to be deemed arrear of rent.
21. Liability of raiyat to be ejected for arrear due.
    Proviso.
22. Liability of farmer to have lease cancelled for arrear adjudged due.
    Proviso.
23. Cognizance of suits under Act.
24. Suits by zamindárs against agents for money or accounts.
25. Ejectment of cultivators, farmers, &c., by zamindárs.
    Proviso.
26. [*Repealed.*]
27. Registry of transfers of taluqs, &c.
    Proviso.

SECTIONS.

28. Applications to dispossess grantees of land exempt from revenue.
29. Suits by or against sarbaráhkárs or tahsildárs of estates held khás.
30. Commencement of—
suits generally;
31. suits for grant of pattás, &c;
32. suits for arrears of rent.
Proviso.
33. Suits against agents for money, papers or accounts.
Proviso.
34. Mode of instituting suits. Form of plaint or statement of claim.
35. Statement by whom presented.
36. Verification of statement.
Punishment for false verification.
37. [*Repealed.*]
38. Documentary evidence to be produced by plaintiff.
39. Production of document required by plaintiff from defendant.
40. [*Repealed.*]
41. Plaint in suit for ejectment of raiyat, &c., or for recovery of occupancy or possession of land, &c.
42. Statement may be returned or allowed to be amended.
43. Issue of summons; personal attendance of defendant may be required.
44. Day to be specified in summons how fixed. Defendant to produce necessary documents, and bring witnesses willing to attend without process.
45. Summons how served.
46. Endorsement by názir on summons.
47. Execution of process in other district.
48. Cost of serving summons or warrant to be deposited.
49. Warrant of arrest in what cases issued.
50. Procedure after arrest of defendant.
51. Procedure on defendant being brought before Collector.
Form of security-bond.
52. Procedure if warrant cannot be served.
53. Compensation for arrest applied for without reasonable cause.
54. Consequence of neither party appearing on day of trial.
55. When Collector to pass judgment by default; and when to decree upon admission.
Proviso.
56. If plaintiff only appear, Collector may proceed *ex parte*.
57. Defendant appearing at postponed hearing may be heard in answer.
58. Revival, reversal and alteration of decrees *ex parte* or by default.
59. On appearance, parties to be examined by Collector, and may cross-examine each other.
60. Examination of parties, &c.
61. Witnesses to be examined.
62. Documentary evidence to be produced by defendant.
63. After examination, Collector may make decree if no further evidence required.
64. Consequence of inability of agent to answer.

SECTIONS.

65. If necessary, Collector to record issue and to fix day for hearing further evidence.
66. Parties to produce witnesses on day of trial; or Collector, on application, to summon witness.
67. Rules regarding attendance, examination, &c., of witnesses.
68. Consequence of parties not appearing on day fixed for trial of issue.
69. Suits by and against náibs, gumáshtas, &c.
70. Personal attendance when not required.
71. Employment of authorized agents or mukhtárs.
72. Collector may grant time or adjourn hearing.
73. Collector may cause local enquiry to be made.
74. [*Repealed.*]
75. No interest on deposits.
76. Collector when to fix term for which patta is to be granted.
77. In suits for rent third person claiming to be made party.
Proviso.
78. Suits for ejectment or cancelment of lease.
79. [*Repealed.*]
80. If person required by decree refuse to grant patta, Collector may do so.
81. Refusal to execute kabuliyat as required by decree.
82. Mode of executing decree for ejectment or re-instatement of raiyat.
Punishment for obstructing execution.
83. Execution of decree for cancelment of lease or ejectment or re-instatement of farmer or tenant.
84. When judgment-debtor may be detained or imprisoned without issue of process of execution.
85. Liability of surety on failure to deliver judgment-debtor into custody.
86. [*Repealed.*]
87. Application for execution against moveable property.
88. Duration of warrant.
89. Second and successive warrants.
90. After one year execution not to issue without notice.
91. Notice of execution against representative.
92. Execution after three years from date of judgment.
93. Warrant against person.
Limit of imprisonment.
If arrest be for non-delivery of account.
94. No second imprisonment under same judgment.
95. Deposit of diet-money.
96. Payment of diet-money in advance during imprisonment.
97. Diet-money to be costs in suit.
98. List of property taken in execution and proclamation of sale.
99. Custody and sale of moveable property taken in execution.
100. Collector may stay sale of moveable property seized, if third party claim interest therein.
101. Collector to adjudicate such claims.
102. Claimant failing to establish right liable to compensate judgment-creditor.
103. No appeal from order under sections 101, 102.
Proviso.

SECTIONS.

104. Sale not vitiated by irregularity in publishing or conducting.
Proviso.
105. Sale of transferable tenures in execution of decrees for arrears of rent.
106. If third party claim to be lawful possessor of tenure, Collector to stay sale and to enquire and adjudicate.
Proviso.
107. Mode of adjudicating claims.
108. Execution of decrees given in favour of sharers in undivided estates or tenures.
109. If execution against immoveable property when money-decree cannot be otherwise satisfied.
110. Execution against house or building—
against saleable under-tenure;
if it be an estate or a share of an estate.
111. Consequence of objection offered before sale of immoveable property.
112. Produce of land held hypothecated for rent.
Arrears of rent recoverable by distraint under following rules.
Cultivators who have given security exempt from distraint.
Proviso.
113. Distraint when barred.
114. Power of distraint of managers under Court of Wards, &c.
Proviso.
115. Standing crops and crops gathered but not stored liable to distraint.
116. Defaulter to be served with written demand, &c., before or at time of distraint.
117. Distress proportionate to arrear.
List of property served on owner.
118. Standing crops, &c., when attached, to be reaped and stored by cultivator, or, if he neglect to do so, by distrainer.
119. Distrainer may apply for aid to Collector in case of resistance.
120. Servants employed to distrain to be furnished with written authority.
121. Distress withdrawn if defaulter tender payment of arrear and expenses prior to sale.
122. Application for sale.
123. Form of application.
Deposit of cost of notice to defaulter.
124. Procedure of amin on receipt of application.
125. Amin to suspend sale on receipt of Collector's certificate of institution of suit.
126. Suit to contest distrainer's demand before notice of sale.
127. Distress withdrawn on receipt of Collector's certificate of execution of bond to pay amount due.
128. On expiration of period fixed in proclamation of sale, if institution of suit to contest demand not certified, sale may proceed.
129. Place and manner of sale of distrained property.
130. If fair price not offered, sale may be postponed and shall be then completed whatever price offered.

SECTIONS.

131. Payment of purchase-money.
132. Disposal of proceeds of sale.
133. Officers holding sales prohibited from purchasing.
134. Irregularities to be reported to Collector.
Officer not to sell if he find that defaulter has not received notice.
135. Recovery of expenses if amin proceeds to place of sale and no sale takes place.
136 Proceedings of amins, &c., subject to revision and orders of Collectors.
137. Second proclamation of sale.
138. Procedure after institution of suit to contest to contest demand.
139. Owner of property distrained for arrears alleged to be due from another may institute suit against distrainer, &c.
Proviso.
140. Procedure if right to distrain be disputed.
141. Persons prevented from suing in time to save property from sale may sue for damages;
142. also persons aggrieved by illegal act of distrainer.
143. Unlawful distraint.
144. Time for commencing suits for damages.
145. Resistance of distraint.
146. Service of process.
147. Resistance of process.
148. Place of holding Court.
Proviso.
149. } [*Repealed.*]
150. }
151. Control of Collectors and Deputy Collectors.
No appeal from orders of Collectors and Deputy Collectors in certain cases.
152. Time for presenting appeals from orders.
153. When appeal allowed from judgment of Collector for money below one hundred rupees.
154. Rehearing in suits not open to appeal.
155. Appeal from decision of Deputy Collector.
156. Petition of appeal.
157. Procedure in appeal.
158. Re-admission of appeal.
159. Judgment in appeal.
160. In what suits appeal to lie to Zila Judge.
to Sadr Court.
161. Presentation and hearing of appeals.
162. [*Repealed.*]
163. No jurisdiction in Collector as to lands beyond district.
164. Deputy Collector not to exercise judicial powers.
165. Powers to be exercised by Assistants to Collectors.
166. Saving of rights of proprietors as to tenures under Reg. VIII, 1819.
167. [*Repealed.*]
168. Interpretation.

SCHEDULE.

ACT No. X of 1859.[a]

Received the Governor General's assent on the 29th April, 1859.

An Act to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal.

Preamble.

WHEREAS it is expedient to re-enact with certain modifications the provisions of the existing law relative to the rights of raiyats with respect to the delivery of pattás and the occupancy of land, to the prevention of illegal exaction and extortion in connection with demands of rent, and to other questions connected with the same; to extend the jurisdiction of Collectors, and to prescribe rules for the trial of such questions, as well as of suits for the recovery of arrears of rent, and of suits arising out of the distraint of property for such arrears; and to amend the law relating to distraint; It is enacted as follows:—

1. [*Laws repealed and modified.*] *Rep. by Act XIV of 1870, s. 1.*

Raiyat entitled to pattá.

2. Every raiyat is entitled to receive, from the person to whom the rent of the land held or cultivated by him is payable, a pattá containing the following particulars:—

the quantity of land; and, where fields have been numbered in a Government survey, the number of each field;

the amount of annual rent;

the instalments in which the same is to be paid;

and any special conditions of the lease;

if the rent is payable in kind, the proportion of produce to be delivered and the time and manner of delivery.

Raiyats holding land at fixed rates to receive pattás.

3. Raiyats who, in the provinces of Bengal, Behar, Orissa *and Benares*,[b] hold lands at fixed rates of rent which have not been changed from the time of the permanent settlement, are entitled to receive pattás at those rates.

If rent of land be not changed for twenty years.

4. Whenever, in any suit under this Act, it shall be proved that the rent at which land is held by a raiyat in the said provinces has not been changed for a period of twenty years before the commencement of the suit, it shall be presumed that the land has been held at that rent from the time of the

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[a] This Act has been declared in force, under s. 3 of the Scheduled Districts Act, 1874, in the district of Manbhoom—see *infra*, p 662.

It has been repealed by Ben. Act VIII of 1869, s 107, as to districts in Bengal to which that Act is extended. It has also been repealed in the division of Chota Nagpore (except the district of Manbhoom and the Tributary Maháls) by Ben. Act I of 1879, s. 3, and in Bengal (except Calcutta, Orissa and the Scheduled Districts) by Act VIII of 1885, s. 2.

[b] The Act has been repealed in the province of Benares by Act XVIII of 1873, s. 2.

permanent settlement, unless the contrary be shown, or unless it be proved that such rent was fixed at some later period.

Raiyats having right of occupancy, but not holding at fixed rates, to receive pattás.

5. Raiyats having rights of occupancy, but not holding at fixed rates as described in the two preceding sections, are entitled to receive pattás at fair and equitable rates.

In case of dispute, the rate previously paid by the raiyat shall be deemed to be fair and equitable, unless the contrary be shown in a suit by either party under the provisions of this Act.

Right of occupancy of raiyat cultivating or holding land for twelve years.

6. Every raiyat who has cultivated or held land for a period of twelve years has a right of occupancy in the land so cultivated or held by him, whether it be held under pattá or not, so long as he pays the rent payable on account of the same; but this rule does not apply to khámár, nijjot or sir land belonging to the proprietor of the estate or tenure and let by him on lease for a term or year by year, nor (as respects the actual cultivator) to lands sublet for a term or year by year by a raiyat having a right of occupancy.

The holding of the father or other person from whom a raiyat inherits shall be deemed to be the holding of the raiyat within the meaning of this section.

Saving of terms of written contracts.

7. Nothing contained in the last preceding section shall be held to affect the terms of any written contract for the cultivation of land entered into between a landholder and a raiyat when it contains any express stipulation contrary thereto.

Pattás to raiyats not having rights of occupancy.

8. Raiyats not having rights of occupancy are entitled to pattás only at such rates as may be agreed on between them and the persons to whom the rent is payable.

Person granting pattá entitled to counterpart-engagement.

9. Every person who grants a pattá is entitled to receive from the person to whom the pattá is granted a kabúliyat or counterpart-engagement in conformity with the terms of the pattá.

The tender to any raiyat of a pattá such as the raiyat is entitled to receive shall be held to entitle the person to whom the rent is payable to receive a kabúliyat from such raiyat.

Exactions in excess of rent or receipt withheld.

10. Every under-tenant or raiyat from whom any sum is exacted in excess of the rent specified in his pattá, or payable under the provisions of this Act, whether as abwáb or under any other pretext, and every under-tenant, raiyat or cultivator from whom a receipt is withheld for any sum of money paid by him as rent, shall be entitled to recover from the person receiving such rent damages not exceeding double the amount so exacted or paid.

Form of receipt.

Receipts for rent shall specify the year or years on account of which the

rent is acknowledged to have been paid; and any refusal to make such specification shall be held to be a withholding of a receipt.

Landholder not to compel attendance of tenant for adjustment of rent, &c. Payment of rent how enforced.

11. The power heretofore vested in zamindárs and other landholders of compelling the attendance of their tenants for the adjustment of their rents or for any other purpose is withdrawn, and all such persons are prohibited from adopting any means of compulsion for enforcing payment of the rents due to them other than are authorized by the provisions of this Act.

Damages for extorting payment of rent by duress.

12. If payment of rent, whether the same be legally due or not, is extorted from any under-tenant or raiyat by illegal confinement or other duress, such under-tenant or raiyat shall be entitled to recover such damages, not exceeding in any case the sum of two hundred rupees, as may be deemed a reasonable compensation for the injury done him by such extortion.

An award of compensation under this section shall not bar or affect any penalty or punishment to which the person practising such extortion may be subject by law.

Enhancement of rent of raiyat holding without, or after expiry, &c., of writte engagement

13.[a] No under-tenant or raiyat who holds or cultivates land without a written engagement, or under a written engagement not specifying the period of such engagement, or whose engagement has expired, or has become cancelled in consequence of the sale for arrears of rent or revenue of the tenure or estate in which the land held or cultivated by him is situate, and has not been renewed, shall be liable to pay any higher rent for such land than the rent payable for the previous year, unless a written notice shall have been served on such under-tenant or raiyat, in or before the month of Chait, specifying the rent to which he will be subject for the ensuing year, and the ground on which an enhancement of rent is claimed.

Such notice shall be served by order of the Collector on the application[b] of the person to whom the rent is payable, and shall, if practicable, be served personally on the under-tenant or raiyat.

If for any reason the notice cannot be served personally upon the under-tenant or raiyat, it shall be affixed at his usual place of residence, or, if he have no such place of residence in the district in which the land is situate, the mode of service of such notice shall be by affixing it at the mál-kachahri of such land or other conspicuous place thereon, or at the village chauri or chaupál, or at some other conspicuous place in the village in which the land is situate.[b]

Mode of con-

14.[a] Any under-tenant or raiyat on whom such notice as aforesaid has been

[a] The provisions of ss. 13 and 14 are not to affect settlement-proceedings under Ben. Reg. VII of 1822 or other law for the time being in force for the regulation of settlements—see Ben. Act VIII of 1879, s. 4.

[b] Certain words in s. 13, repealed by Act VII of 1870, s. 2, have here been omitted.

testing enhancement of rent.

served may contest his liability to pay the enhanced rent demanded of him, either by complaint of excessive demand of rent as hereinafter provided, or in answer to any suit preferred against him for recovery of arrears of the enhanced rent.

Dependent taluqdár, &c., holding at fixed rent without change since permanent settlement not liable to enhancement.

15. No dependent taluqdár or other person possessing a permanent transferable interest in land, intermediate between the proprietor of an estate and the raiyats, who, in the provinces of Bengal, Behar, Orissa *and Benares*,[a] holds his taluq or tenure (otherwise than under a terminable lease) at a fixed rent which has not been changed from the time of the permanent settlement, shall be liable to any enhancement of such rent, anything in section 51, Regulation VIII, 1793, or in any other law to the contrary notwithstanding.

Rent of taluqdar, &c., not changed for twenty years to be *primâ facie* evidence of occupancy at that rent since permanent settlement.

16. Whenever, in any suit under this Act, it shall be proved that the rent at which a taluq or other tenure is held in the said provinces has not been changed for a period of twenty years before the commencement of the suit, it shall be presumed that such taluq or tenure has been held at that rent from the time of the permanent settlement, unless the contrary be shown, or it be proved that such rent was fixed at some later period.

Rent of raiyat having right of occupancy not to be enhanced unless—

17.[b] No raiyat having a right of occupancy shall be liable to an enhancement of the rent previously paid by him except on some one of the following grounds, namely:—

rate paid by him is below that prevailing in adjacent places.

that the rate of rent paid by such raiyat is below the prevailing rate payable by the same class of raiyats for land of a similar description and with similar advantages in the places adjacent;

value of land, &c., has increased independently of raiyat:

that the value of the produce or the productive powers of the land have been increased otherwise than by the agency or at the expense of the raiyat;

quantity of land held by raiyat is greater than he has paid rent for.

that the quantity of land held by the raiyat has been proved by measurement to be greater than the quantity for which rent has been previously paid by him.

When raiyat may claim abatement of rent.

18. Every raiyat having a right of occupancy shall be entitled to claim an abatement of the rent previously paid by him, if the area of the land has been diminished by diluvion or otherwise, or if the value of the produce or the productive powers of the land have been decreased by any cause beyond the

[a] This Act has been repealed in the province of Benares by Act XVIII of 1873, s. 2.
[b] The provisions of s. 17 are not to affect settlement-proceedings under Ben. Reg. VII of 1822 or other law for the time being in force for the regulation of settlements—see Ben. Act VIII of 1879, s. 4.

power of the raiyat, or if the quantity of land held by the raiyat has been proved by measurement to be less than the quantity for which rent has been previously paid by him.

Relinquishment of land by raiyat after notice.

19. Any raiyat who desires to relinquish the land held or cultivated by him shall be at liberty to do so provided he gives notice of his intention in writing to the person entitled to the rent of the land or his authorized agent in or before the month of Chait of the year preceding that in which the relinquishment is to have effect.

If he fail to give such notice, and the land is not let to any other person, he shall continue liable for the rent of the land.

If the person entitled to the rent of the land or his agent refuse to receive any such notice and to sign a receipt for the same, the raiyat may make an application[a] to the Collector, who shall thereupon cause the notice to be served on such person or his agent in the manner provided in section 13.

What to be deemed arrear of rent.

20. Any instalment of rent which is not paid on or before the day when the same is payable according to the pattá or engagement, or, if there be no written specification of the time of payment, at or before the time when such instalment is payable according to established usage, shall be held to be an arrear of rent under this Act, and, unless otherwise provided by written agreement, shall be liable to interest at twelve per centum per annum.

Liability of raiyat to be ejected for arrear due.

21. When an arrear of rent remains due from any raiyat at the end of the Bengal year, or at the end of the month of Jeth of the Fasli or Wiláiyati year, as the case may be, such raiyat shall be liable to be ejected from the land in respect of which the arrear is due:

Proviso.

Provided that no raiyat having a right of occupancy or holding under a pattá the term of which has not expired shall be ejected otherwise than in execution of a decree or order under the provisions of this Act.

Liability of farmer to have lease cancelled for arrear adjudged due.

22. When an arrear of rent shall be adjudged to be due from any farmer or other leaseholder not having a permanent or transferable interest in the land, the lease of such leaseholder shall be liable to be cancelled and the leaseholder to be ejected:

Proviso.

Provided that no such lease shall be cancelled nor the leaseholder ejected otherwise than in execution of a decree or order under the provisions of this Act.

Cognizance of suits under Act.

23. (1) All suits for the delivery of pattás or kabúliyats or for the determination of the rates of rent at which such pattás or kabúliyats are to be delivered;

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[a] Certain words of s. 19, repealed by Act VII of 1870, s. 2, have here been omitted.

(2) all suits for damages on account of the illegal exaction of rent or of any unauthorized cess or impost, or on account of the refusal of receipts for rent paid, or on account of the extortion of rent by confinement or other duress;

(3) all complaints of excessive demand of rent, and all claims to abatement of rent;

(4) all suits for arrears of rent due on account of land either khirájí or lákhiráj, or on account of any rights of pasturage, forest-rights, fisheries or the like;

(5) all suits to eject any raiyat or to cancel any lease on account of the non-payment of arrears of rent, or on account of a breach of the conditions of any contract by which a raiyat may be liable to ejectment or a lease may be liable to be cancelled;

(6) all suits to recover the occupancy or possession of any land, farm or tenure, from which a raiyat, farmer or tenant has been illegally ejected by the person entitled to receive rent for the same;

(7) all suits arising out of the exercise of the power of distraint conferred on zamindárs and others by sections 112 and 114 of this Act, or out of any acts done under colour of the exercise of the said power as hereinafter particularly provided,

shall be cognizable by the Collectors of land-revenue and shall be instituted and tried under the provisions of this Act and, except in the way of appeal as provided in this Act, shall not be cognizable in any other Court or by any other officer, or in any other manner.

Suits by zamindárs against agents for money or accounts.

24. Suits by zamindárs and others in receipt of the rent of land, against any agents employed by them in the management of land or collection of rents, or the sureties of such agents, for money received or accounts kept by such agents in the course of such employment, or for papers in their possession, shall be cognizable by the Collectors, and shall be instituted and tried under the provisions of this Act, and shall not be cognizable in any other Court except in the way of appeal as provided in this Act.

Ejectment of cultivators, farmers, &c., by zamindárs.

25. If any zamindár or other person in receipt of the rent of land requires assistance to eject any cultivator not having a right of occupancy, or to eject any farmer or other tenant holding only for a limited period after the determination of his lease or tenancy, or any agent after the determination of his agency, or to enforce any attachment or ejectment expressly authorized by any Regulation or Act, he shall make application to the Collector, and the Collector shall proceed thereupon to enquire into the case and pass orders in the manner provided for suits under this Act:

Provided that no such application for the ejectment of a farmer on the determination of a lease shall be received, if the lease be of the kind denominated thíká zar-i-peshgi or the like, in which an advance has been made by the leaseholder, and the proprietor's right of re-entry at the end of the term is contingent on the repayment of such advance either in money or by the usufruct of the land. In all such cases the parties must proceed by suit in the civil Court. Proviso.

26. [*Measurement of lands.*] *Rep. by Ben. Act VI of 1862, s. 1.*

27. All dependent taluqdárs and other persons possessing a permanent transferable interest in land intermediate between the zamindár and the cultivator are required to register, in the sharishtá of the zamindár or superior tenant to whom the rents of their taluqs or tenures are payable, all transfers of such taluqs or tenures or portions of them, by sale, gift or otherwise, as well as all successions thereto, and divisions among heirs in cases of inheritance. Registry of transfers of taluqs, &c.

And every zamindár or superior tenant is required to admit to registry and otherwise give effect to all such transfers, when made in good faith, and all such successions and divisions.

If any zamindár or superior tenant refuse to admit to registry or otherwise give effect to any such transfer or succession, the transferee or successor may make application to the Collector, and the Collector shall thereupon proceed to enquire into the case in the manner provided for suits under this Act, and, if no sufficient grounds are shown for the refusal, shall pass an order enjoining the zamindár or superior tenant to admit to registry and otherwise give effect to such transfer or succession.

Provided that no zamindár or superior tenant shall be required to admit to registry or give effect to any division or distribution of the rent payable on account of any such tenure, nor shall any such division or distribution of rent be valid and binding without the consent in writing of the zamindár or superior tenant. Proviso.

28. So much of section 10, Regulation XIX, 1793, section 10, Regulation XLI 1795,[a] section 6, Regulation XXXI, 1803,[a] section 21, Regulation VIII, 1805,[a] and section 24, Regulation XII, 1805, as authorizes and requires proprietors and farmers of estates and dependent taluqs, in cases in which grants for holding land exempt from the payment of revenue have been made subsequent to the dates specified in the said sections, of their own authority to collect the rents of such land and to dispossess the grantees of the proprietary right in the land and to re-annex it to the estate or taluq in which it may be situate, is repealed; and any proprietor or farmer who may desire to assess any such land or to dispossess any such grantee shall make application to the Applications to dispossess grantees of land exempt from revenue.

[a] Ben. Regs. XLI of 1795, XXXI of 1803 and VIII of 1805 have been repealed by Act XIX of 1873.

Collector, and such application shall be dealt with as a suit under the provisions of this Act.

Every such suit shall be instituted within the period of twelve years from the time when the title of the person claiming the right to assess the land or dispossess the grantee, or of some person claiming under him, first accrued.

If such period has already elapsed or will elapse within two years from the date of the passing of this Act, such suit may be brought at any time within two years from such date.

Suits by or against sarbaráhkárs or tahsildárs of estates held khás

29. All suits which under the provisions of this Act may be brought by or against zamindárs or other persons in the receipt of the rent of land may be brought by or against sarbaráhkárs or tahsildárs of estates held under khás management, whether such estates are the property of Government or of individuals.

If the Collector or the sarbaráhkár or tahsildár of any such estate in the provinces of Bengal, Behar and Orissa proceed against any defaulting raiyat or under-tenant of such estate under the powers vested in him by section 25, Regulation VII, 1799,[a] and not according to the provisions of this Act, such raiyat or under-tenant may contest the demand on account of which he is so proceeded against by suit in the Civil Court.

Commencement of—suits generally;

30. Except as otherwise herein provided, all suits instituted under this Act shall be commenced within the period of one year from the date of the accruing of the cause of action.

suits for grant of pattás, &c.;

31. Suits for the delivery of pattás or kabúliyats, and for the determination of the rates of rent at which such pattás or kabúliyats are to be delivered, may be instituted at any time during the tenancy.

suits for arrears of rent.

32. Suits for the recovery of arrears of rent shall be instituted within three years from the last day of the Bengal year, or from the last day of the month of Jeth of the Fasli or Wiláiyati year, in which the arrear claimed shall have become due.

For arrears of rent due at the passing of this Act, suit shall be brought within three years after the passing of this Act, or within the period now allowed for the institution of such suits in the Civil Court, whichever may first expire:

Proviso.

Provided that, if the suit be for the recovery of rent at a higher rate than was payable in the previous year, such rent having been enhanced after issue of notice under section 13, and the enhancement not having been confirmed

[a] Ben. Reg. VII of 1799 has been repealed by Act XVI of 1874—but see saving of provisions in that Act

by any competent Court, the suit shall be instituted within three months from the end of the Bengal year, or of the month of Jeth of the Fasli or Wiláiyati year, on account of which such enhanced rent is claimed.

Suits against agents for money, papers or accounts.

33. Suits for the recovery of money in the hands of an agent or for the delivery of accounts or papers by an agent may be brought at any time during the agency or within one year after the determination of the agency of such agent, or, in the case of claims now existing, within one year after the passing of this Act or within the period now allowed for the institution of such suits in the Civil Court, whichever may first expire:

Proviso.

Provided that, if the person having the right to sue shall by means of fraud have been kept from the knowledge of the receipt of any such money by the agent, or if any fraudulent account shall have been rendered by the agent, the suit may be brought within one year from the time when the fraud shall have been first known to such person; but no such suit shall in any case (except the case of claims now existing as aforesaid) be brought at any time exceeding three years from the termination of the agency.

Mode of instituting suits. Form of plaint or statement of claim.

34. Suits under this Act shall be instituted by presenting to the Collector a plaint or statement of claim which shall contain the name, description and place of abode of the plaintiff, the name, description and place of abode of the defendant, so far as they can be ascertained, the substance of the claim and the date of the cause of action.

Statement by whom presented.

35. The statement of claim shall be presented by the plaintiff or by an authorized agent of the plaintiff who has personal knowledge of the facts of the case, or by an agent who shall be accompanied by a person who has such knowledge.

Verification of statement.

36. The statement of claim shall be subscribed and verified at the foot by the plaintiff or his agent in the manner following or to the like effect:—

I, *A. B.*, do declare that the above statement is true to the best of my knowledge and belief.

Punishment for false verification.

If the statement shall contain any averment which the person making the verification shall know or believe to be false, or shall not know or believe to be true, such person shall be subject to punishment according to the law for the time being in force for the punishment of giving or fabricating false evidence.

37. [*Statement of claim to be written on stamped paper.*] *Rep. by Act XXXVI of 1860, s. 1.*

Documentary evidence to be produced by plaintiff.

38. If the plaintiff rely in support of his claim on any document in his possession, he shall deliver the same to the Collector at the time of presenting his statement of claim.

Unless such document be delivered in, or its non-production be sufficiently

excused, or unless the Collector see fit to extend the time for producing the same, it shall not afterwards be admitted.

Production of document required by plaintiff from defendant.

39. If the plaintiff require the production of any document in the possession or power of the defendant, he may at the time of presenting his statement of claim deliver to the Collector a description of the document in order that the defendant may be required to produce the same.

40.—[*Form of plaint in suits for arrears of rent.*] *Rep. by Ben. Act VI of 1862, s. 1.*

Plaint in suit for ejectment of raiyat, &c., or for recovery of occupancy or possession of land, &c.

41. If the suit be for the ejectment of a raiyat, farmer or tenant from any land, farm or tenure, or for the recovery of the occupancy or possession of any land, farm or tenure, the statement shall describe (as circumstances may require) the extent, situation and designation of the same; and, if necessary for the identification of the land, shall set forth the boundaries of such land.

Statement may be returned or allowed to be amended.

42. If the statement of claim do not contain the several particulars hereinbefore required to be specified therein, or be not subscribed and verified as hereinbefore required, the Collector may return the statement to the plaintiff, or at his discretion allow it to be amended.

Issue of summons; personal attendance of defendant may be required.

43. If the statement of claim be in proper form, the Collector, except as otherwise hereinafter specially provided, shall direct the issue of a summons to the defendant, and if the plaintiff require the personal attendance of the defendant, and satisfy the Collector that such personal attendance is necessary, or the Collector of his own accord require such personal attendance, the summons shall contain an order for the defendant to appear personally on a day to be specified in the summons; otherwise the summons shall order the defendant to appear personally or by an agent duly authorized on his behalf, who has personal knowledge of the subject, or who shall be accompanied by a person who has such personal knowledge.

Day to be specified in summons how fixed. Defendant to produce necessary documents, and bring witnesses willing to attend without process.

44. The day to be specified in the summons shall be fixed with reference to the state of the file and the distance that the defendant may be or be supposed to be at the time from the place where the Court is held, and the summons shall order the defendant to produce any document which he may have in his possession, of which the plaintiff demands inspection, or upon which the defendant may intend to rely in support of his defence.

It shall also enjoin him to bring with him his witnesses if they are willing to attend without issue of process; and shall be in the form (A) contained in the schedule to this Act or to the like effect.

Summons how served.

45. The summons shall be served by delivering a copy of the summons to the defendant personally when practicable, or, if the summons cannot be served on the defendant personally, by affixing a copy of it to some conspicuous

part of his usual place of abode, and also affixing a copy of the same in the Collector's office.

Endorsement by názir on summons.

46. If the summons be served personally, the názir shall endorse on the summons the fact of such service. If personal service be not effected, the názir shall endorse on the summons the reason of not serving it personally and how it has been served.

Execution of process in other district.

47. If the usual place of abode of the defendant be in another district, the summons, together with the cost of the service thereof, shall be sent by the public post to the Collector of such district, who shall issue the summons, and return the same after service, with the prescribed endorsement, to the officer by whom it was transmitted to him.

Cost of serving summons or warrant to be deposited.

48. The amount of the cost of serving the summons, or, if a warrant be issued as provided in the next succeeding section, of serving the warrant, shall in all cases be deposited in Court upon the same day or the day next following that on which the plaint or statement of claim is presented to the Collector.

If the said amount be not so deposited (except in cases in which the Collector may allow the issue of summons free of cost under the discretion reserved to him in section 146), the case shall not be brought on the file of suits; but in such case the plaintiff may present another plaint at any time within the period allowed by the rules for the limitation of actions.

Warrant of arrest in what cases issued.

49. If in any suit against an under-tenant or raiyat for the recovery of an arrear of rent, or against an agent for the recovery of any money, papers or accounts, the plaintiff desires a warrant of arrest to be issued against the defendant, such defendant being resident within the district in which the suit is instituted, he shall present with his statement of claim an application for the issue of such warrant.

When such application is presented, the Collector shall examine the plaintiff or his agent on his oath or affirmation or otherwise according to the law for the time being in force in relation to the examination of witnesses, and inspect the documents adduced by him in support of his claim, and if there be *primâ facie* grounds for believing the claim to be well-founded, and that, if a summons be issued, the defendant will abscond instead of appearing to answer the claim, the Collector may issue a warrant for the arrest of the defendant.

The Collector shall fix a reasonable time for the return of the warrant, which shall be in the form (B) contained in the schedule to this Act or to the like effect, and the officer entrusted with the service of the warrant shall at the time of arresting the defendant deliver to him a notice addressed to the defendant (which shall be in the form (C) in the schedule or to the like effect) containing the particulars of the claim, and requiring the defendant, if he

contest the claim, to bring with him any document upon which he may intend to rely in support of his defence.

But no such warrant shall be issued in a suit for arrears of rent due in respect of a dependent taluq or other transferable tenure, which, as hereinafter provided, is liable to sale in execution of any decree which may be passed in the case.

Procedure after arrest of defendant.

50. If a defendant be arrested under the warrant of arrest, he shall be brought with all convenient speed before the Collector, and the Collector shall commit him to custody unless he deposit in Court such sum as may be specified in the notice.

Procedure on defendant being brought before Collector.

51. When a defendant is brought before the Collector under warrant, the Collector shall with all convenient speed proceed to try the case in the manner hereinafter provided; and, if the suit cannot be at once adjudicated, the Collector may, if he think fit, require the defendant to give security for his appearance whenever the same may be required at any time whilst the suit is depending or until execution of the final decree which may be passed thereon, and may commit the defendant to the civil jail, to be there detained until he shall furnish such security or deposit such sum as the Collector shall order.

Form of security-bond.

The security-bond shall be in the form (D) contained in the schedule to this Act or to the like effect.

Procedure if warrant cannot be served.

52. If the defendant cannot be arrested under the warrant, the Collector, on the application of the plaintiff, shall either postpone the case for such period as he may think proper in order that the plaintiff may apply within the said period for another warrant to be issued for the arrest of the defendant, or shall forthwith issue a proclamation to be affixed in his own office and at the residence of the defendant fixing a day for the hearing of the case, which shall not be less than ten days from the date of the publication of the notice at the residence of the defendant.

If the defendant shall appear in pursuance of the proclamation, he shall be dealt with as provided in the last preceding section.

Compensation for arrest applied for without reasonable cause.

53. If it shall appear to the Collector that the arrest of the defendant was applied for without reasonable cause, the Collector may in his decree award to the defendant such sum not exceeding one hundred rupees as he may deem a reasonable compensation for any injury or loss which the defendant may have sustained by reason of such arrest or of his detention in jail during the pendency of the suit.

Consequence of neither party appear

54. If on the day fixed by the summons or proclamation for the appearance of the defendant, or on any subsequent day to which the hearing of the

case may be adjourned prior to the recording of an issue for trial as hereinafter provided, neither of the parties appear in person or by an agent, the case shall be struck off with liberty to the plaintiff to bring a fresh suit unless precluded by the rules for the limitation of actions. ing on day of trial.

55. If on any such day the defendant only appear, the Collector shall pass judgment against the plaintiff by default, unless the defendant admit the cause of action, in which case the Collector shall proceed to give judgment for the plaintiff upon such admission without costs, provided that such judgment, if there be more than one defendant, shall be only against the defendant who makes the admission. When Collector to pass judgment by default, and when to decree upon admission. Proviso.

56. If on any such day the plaintiff only appear, the Collector, upon proof that the summons or proclamation has been duly served according to the provisions of this Act, shall proceed to examine the plaintiff or his agent, and after considering the allegations of the plaintiff, and any documentary or oral evidence adduced by him, may either dismiss the case or postpone the hearing of it to a future day for the attendance of any witness the plaintiff may wish to call, or may pass judgment *ex parte* against the defendant. If plaintiff only appears Collector may proceed *ex parte*.

57. If the defendant shall appear on any subsequent day to which the hearing of the suit may be postponed under the last preceding section, the Collector may upon such conditions, if any, as to costs or otherwise as he may think proper, allow the defendant to be heard in answer to the suit as if he had appeared on the day fixed for his attendance. Defendant appearing at postponed hearing may be heard in answer.

58.[a] No appeal shall lie from a judgment passed *ex parte* against a defendant who has not appeared, or from a judgment against a plaintiff by default for non-appearance. Revival, reversal and alteration of decrees *ex parte* or by default.

But in all such cases, if the party against whom judgment has been given shall appear, either in person or by agent, if a plaintiff within fifteen days from the date of the Collector's order, and if a defendant within fifteen days after any process for enforcing the judgment has been executed or at any earlier period, and shall shew good and sufficient cause for his previous non-appearance and shall satisfy the Collector that there has been a failure of justice, the Collector may, upon such terms and conditions as to costs or otherwise as he may think proper, revive the suit and alter or rescind the decree, according to the justice of the case.

But no decree shall be reversed or altered without previously summoning the adverse party to appear and be heard in support of it.

59. When both parties appear in person or by agent on the day named in On appear-

[a] As to appeals from orders of Collector under s. 58, see Ben. Act VI of 1862, s 13.

ance, parties to be examined by Collector, and may cross-examine each other.

the summons, or upon any subsequent day to which the hearing of the case may be adjourned for sufficient reason to be recorded by the Collector, the Collector shall proceed to examine such of the parties as may be present, and either party or his agent may cross-examine the other.

If either of the parties be not bound to attend personally, any agent by whom he shall appear, or any person who shall accompany such agent, shall be examined and cross-examined in like manner as the party himself would have been if he had attended personally.

At the time of examination the defendant, if he think fit, may file a written statement of his defence.

Examination of parties, &c.

60. The examination of the parties or their agents or such other persons as aforesaid shall be upon oath or affirmation or otherwise according to the law for the time being in force relative to the examination of witnesses.

The substance of the examination shall be reduced to writing in the vernacular language of the Collector and filed with the record.

Witnesses to be examined

61. If either of the parties shall bring forward a witness on such day, the Collector may take the evidence of such witness.

Documentary evidence to be produced by defendant.

62. If the defendant rely on any document in support of his defence, he shall deliver the same into Court at the first hearing of the suit; and unless such document be so delivered in, or its non-production be sufficiently excused, or unless the Collector see fit to extend the time for producing the same, it shall not afterwards be admitted.

After examination, Collector may make decree if no further evidence required.

63. If after the examination required by section 59 and also the examination of any witness who may attend to give evidence on behalf of either of the parties, and after a consideration of the documentary evidence adduced, a decree can be properly made without further evidence, the Collector shall make his decree accordingly.

Consequence of inability of agent to answer.

64. If on such examination as aforesaid, the agent of either party be unable to answer any material question relating to the case which the Collector is of opinion that the party whom he represents ought to answer, and is likely to be able to answer if interrogated in person, the Collector may postpone the hearing of the case to a future day, and direct that the party whose agent may have been unable to answer as aforesaid shall attend in person on such day; and, if the party so directed to attend shall fail to appear in person on the day appointed, the Collector may pass judgment as in case of default or make such other order as he may deem proper in the circumstances of the case.

If necessary, Collector to record issue

65. If on such examination as aforesaid it appear that the parties are at issue on any question upon which it is necessary to hear further evidence, the

Collector shall declare and record such issue, and shall fix a convenient day for the examination of witnesses and the trial of the suit; and the trial shall take place on that day unless there be sufficient reason for adjourning it, which reason shall be recorded by the Collector. and to fix day for hearing further evidence.

66. The parties shall bring forward their witnesses on the day of trial, and, if either party require assistance to procure the attendance of a witness on such day either to give evidence or to produce a document, he shall apply to the Collector in sufficient time before the day fixed for the trial, to enable the witness to be summoned to attend on that day; and the Collector shall issue a summons requiring such witness to attend. Parties to produce witnesses on day of trial; or Collector, on application, to summon witness.

67.[a] The provisions of the Regulations and Acts and all other rules for the time being in force relating to the evidence of witnesses, for procuring the attendance of witness and the production of documents, and for the examination, remuneration and punishment of witnesses, whether parties to the case or not, in cases before the Civil Courts of the Presidency of Bengal, shall, except so far as the same may be inconsistent with the provisions of this Act, apply to and be of equal force and effect in suits under this Act. Rules regarding attendance, examination, &c., of witnesses.

68. If on the day fixed for the trial of any issue neither of the parties appear, the case shall be struck off under the conditions provided in section 54. Consequence of parties not appearing on day fixed for trial of issue.

If on any such day one only of the parties appear, the issue may be tried and determined in the absence of the other party upon such proof as may be then before the Court.

69. When suits under this Act are instituted or defended by náibs, gumáshtas or other persons employed in the collection of rent or management of land in the name and on the behalf of the landholders by whom they are so employed, all the provisions of this Act by which the personal appearance or attendance of parties to a suit is or may be required shall be applicable to such náibs, gumáshtas or other persons; and anything which by this Act is required or permitted to be done by a party in person may be done by any such person as aforesaid. Suits by and against náibs, gumáshtas, &c.

Processes served on any such person shall be as effectual for all purposes in relation to the suit as if the same had been served on the landholder in person, and all the provisions of this Act relative to the service of processes on a party to the suit shall be applicable to the service of processes on such person.

70. A plaintiff or defendant shall not be required to attend in person if of the female sex and of a rank or class which according to the custom and manners of the country would render it improper for her to appear in public. Personal attendance when not required.

[a] As to the applicability of the provisions of s. 67 to proceedings of Collector under s. 10 of Ben. Act VI of 1862, see the latter enactment.

Employment of authorized agents or mukhtárs.

71. Any party to a suit may employ an authorized agent or mukhtár to conduct the case on his behalf, but the appointment of such agent or mukhtár shall not excuse the personal attendance of the plaintiff or defendant in cases where his personal attendance is required by the summons or any order of the Court.[a]

Collector may grant time or adjourn hearing.

72. The Collector may in any case grant time to the plaintiff or defendant to proceed in the prosecution or defence of a suit, and may also from time to time, in order to the production of further proof or for other sufficient reason to be recorded by the Collector, adjourn the hearing or further hearing of any case in such manner as to him may seem fit.

Collector may cause local enquiry to be made.

73. The Collector may at any stage of a case cause a local enquiry and report respecting the matter in dispute to be made by any officer subordinate to him, or by any other officer of Government with the consent of the authority to whom such officer is subordinate, or may himself proceed to the spot and make such local enquiry in person.

The provisions of the law for the time being in force relative to local enquiries by amins or commissioners under orders of the Civil Courts shall apply to any local enquiry made by any officer under this section, and, so far as they are applicable, to enquiries made by the Collector in person.

In the latter case the Collector, after completing the enquiry, shall record on the proceedings such observations as appear to him appropriate, and the observations so recorded shall be received as evidence in the suit.

74. [*Payment of money into Court in satisfaction of demand.*] *Rep. by Ben. Act VI of 1862, s. 1.*

No interest on deposits.

75. No interest shall be allowed to a plaintiff on any sum paid by the defendant into Court from the date of such payment, whether such sum be in full of the plaintiff's claim or fall short thereof.

Collector when to fix term for which pattá is to be granted.

76. If on the trial of a suit for the delivery of a pattá instituted by a raiyat having a right of occupancy the parties do not agree as to the term for which the pattá is to be granted, the Collector shall fix such term as under the circumstances of the case he may think just and proper:

Proviso.

Provided that the term shall not in any case be longer than ten years, and in estates not permanently settled shall not extend beyond the period for which the proprietor of the estate has engaged with Government:

Provided also that, if the defendant be a farmer or other person having only a temporary interest in the land, the term of the pattá shall not extend beyond the period of the continuance of such interest.

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[a] The rest of s. 71, repealed by Act XX of 1865, s. 3, has been omitted.

For cultivators not having a right of occupancy, the term of pattá shall be exclusively in the discretion of the person entitled to the rent of the land.

In suits for rent, third person claiming to be made party.

77. When, in any suit between a landholder and a raiyat or under-tenant under this Act, the right to receive the rent of the land or tenure cultivated or held by the raiyat or under-tenant is disputed, and such right is claimed by or on behalf of a third person on the ground that such third person or a person through whom he claims has actually and in good faith received and enjoyed such rent before and up to the time of the commencement of the suit, such third person shall be made a party to the suit, and the question of the actual receipt and enjoyment of the rent by such third person shall be enquired into and the suit shall be decided according to the result of such enquiry:

Proviso.

Provided always that the decision of the Collector shall not affect the right of either party, who may have a legal title to the rent of such land or tenure, to establish his title by suit in the Civil Court if instituted within one year from the date of the decision.

Suits for ejectment or cancelment of lease.

78. Any person desiring to eject a raiyat or to cancel a lease on account of non-payment of arrears of rent may sue for such ejectment or cancelment and for recovery of the arrear in the same action, or may adduce any unexecuted decree for arrears of rent as evidence of the existence of such arrear in a suit for such ejectment or cancelment.

In all cases of suits for the ejectment of a raiyat or the cancelment of a lease, the decree shall specify the amount of the arrear, and, if such amount together with interest and costs of suit be paid into Court within fifteen days from the date of the decree, execution shall be stayed.

79. [*Judgment how to be pronounced.*] *Rep. by Ben. Act VI of 1862, s. 1.*

If person required by decree refuse to grant pattá, Collector may do so.

80. When a decree is given for the delivery of a pattá, if the person required by the decree to grant such pattá refuse or delay to grant the same, the Collector may grant a pattá in conformity with the terms of the decree under his own hand and seal, and such pattá shall be of the same force and effect as if granted by the person aforesaid.

Refusal to execute kabúliyat as required by decree.

81. When a decree is given for the delivery of a kabúliyat, if the person required by the decree to execute such kabúliyat shall refuse to execute the same, the decree shall be evidence of the amount of rent claimable from such person, and a copy of the decree under the hand and seal of the Collector shall be of the same force and effect as a kabúliyat executed by the said person.

Mode of executing decree for ejectment or

82. If the decree be for the ejectment of any raiyat from land occupied by him, or for the re-instatement of any raiyat in the occupancy of land from which he has been ejected, the decree shall be executed by giving the possession

re-instatement of raiyat.

or occupancy of the land to the person entitled by the decree to such possession or occupancy.

Punishment for obstructing execution.

If any opposition is made to the execution of the order for giving such possession or occupancy by the party against whom the order is made, the Magistrate, on the application of the Collector, shall give effect to the same.

Execution of decree for cancelment of lease or ejectment or re instatement of farmer or tenant.

83. If the decree be for the cancelment of any lease or the ejectment of any farmer or other person (not being an actual cultivator), or for the re-instatement of any farmer or other such person in the possession of a farm or tenure from which he has been ejected, the decree shall be executed by proclaiming the substance of the decree to the cultivators or other occupants by beat of drum or in such other manner as may be customary, and affixing the same in some conspicuous place within or adjacent to the farm or tenure.

When judgment-debtor may be detained or imprisoned without issue of process of execution.

84. If the decree be for arrears of rent or for money, papers or accounts, and the defendant have been committed to jail or appear pursuant to the conditions of any security-bond given under section 51, the Collector may order that he be detained in or committed to the civil jail, unless he immediately pay into Court the amount of the decree with costs, or otherwise comply with the terms of the decree.

Liability of surety on failure to deliver judgment-debtor into custody.

85. If the judgment-debtor have given security for his appearance and be not present when judgment is pronounced, and the surety shall fail to deliver him into custody when required so to do, process of execution may be taken out against the surety in the same manner as if a decree for the amount due by the debtor had been passed against the surety.

If the decree be for the delivery of papers or accounts, and the defendant be not present when judgment is pronounced and the surety shall fail to deliver him into custody when required so to do, execution may be taken out against the surety for the sum due under the bond in the same manner as if a decree for that sum had been passed against the surety.

86. [*Issue of process of execution.*] *Rep. by Ben. Act VI of 1862, s. 1.*

Application for execution against moveable property.

87. Any moveable property required to be seized under an execution shall, if practicable, be described in a list to be furnished by the judgment-creditor, but if the creditor is unable to furnish such list, he may apply for a general attachment of the debtor's effects to the amount of the judgment and costs.

In either case the property to be seized shall be pointed out to the officer entrusted with the execution of the process by the creditor or his agent.

Duration of warrant.

88. Every warrant of execution shall bear date on the day on which it is signed by the Collector and shall continue in force for such period as the

Collector may direct, not being more than sixty days calculated from such date.

Second and successive warrants.

89. Second and successive warrants of execution may be issued by order of the Collector on the application of the judgment-creditor, after the expiration of the period fixed for the continuance in force of a previous warrant.

After one year execution not to issue without notice.

90. Process of execution shall not be issued upon any judgment without previous notice to the party against whom execution is applied for, if, when application for the issue of the process is made, a period of more than one year shall have elapsed from the date of the judgment or from the date of the last previous application for execution.

Notice of execution against representative.

91. Execution on a judgment shall not issue against the heir or other representative of a deceased party without notice to such heir or other representative to appear and be heard.

Execution after three years from date of judgment.

92. No process of execution of any description whatsoever shall be issued on a judgment under this Act after the lapse of three years from the date of such judgment, unless the judgment be for a sum exceeding five hundred rupees, in which case the period within which execution may be had shall be regulated by the general rules in force in respect to the period allowed for the execution of decrees of the Civil Courts.

Warrant against person.

93. If a warrant issue for taking in execution the body of any person, the officer charged with the execution of the warrant shall bring him with all convenient speed before the Collector.

If such person shall not then deposit in Court the full amount specified in the warrant or make such arrangement for the payment of the same as shall be satisfactory to the judgment-creditor, or satisfy the Collector that he has no present means of paying the debt, the Collector shall send him to the civil jail, there to remain for such time as shall be directed by a warrant addressed to the keeper of the jail, unless he shall in the meantime pay the full amount for the payment of which he is liable under the decree :

Limit of imprisonment.

Provided that the time for which a debtor may be confined in execution of a decree under this Act shall not exceed three calendar months when the amount decreed exclusive of costs does not exceed fifty rupees, or six calendar months when such amount does not exceed five hundred rupees, or two years in any other case.

If arrest be for non-delivery of accounts.

If the decree against any person arrested under a warrant be for the delivery of papers or accounts and the papers or accounts shall not be delivered by him when he is brought before the Collector, such person may be committed to the civil jail, there to remain for such time not exceeding six calendar

months as the Collector shall direct, unless he shall in the meantime deliver the papers or accounts according to the terms of the decree.

No second imprisonment under same judgment.

94. Any person once discharged from jail shall not be imprisoned a second time under the same judgment.

If the amount due under the decree do not exceed one hundred rupees, the Collector may declare such discharged person absolved from further liability under that decree.

In other cases the discharge shall not extinguish the liability of the discharged person under the decree, or exempt any property belonging to such person from attachment in execution of the same.

Deposit of diet-money.

95. Any person applying for a warrant of arrest under section 49 or suing out process of execution against the body of any person, shall deposit in Court, at the time of issue of the warrant, diet-money for one month of thirty days at such rate as the Collector may direct, not exceeding two annas per diem, unless the Collector for any special reason direct that deposit be made at a higher rate, which shall not exceed four annas per diem.

Payment of diet-money in advance during imprisonment.

96. Payment of diet-money at the same rate shall be made previously to the commencement of each succeeding month of the imprisonment, in failure of which the party confined shall be discharged.

Diet-money to be costs in suit.

97. All diet-money spent in providing subsistence for any prisoner shall be added to the costs in the suit, and any diet-money not so spent shall be returned to the person who deposited the same.

List of property taken in execution and proclamation of sale.

98. In executing a writ of execution against the moveable property of a debtor liable under this Act, the officer charged with the execution of the writ shall prepare a list of the property pointed out by the judgment-creditor, and shall publish a proclamation specifying the day upon which the sale is intended to be held, together with a copy of the said list, at the intended place of sale and at the residence of the debtor.

A copy of the said proclamation and list shall be transmitted to the Collector and shall be affixed in his office.

Custody and sale of moveable property taken in execution.

99. No sale of any moveable property taken in execution shall be made until after the end of ten days next following the day on which such property may have been so taken.

Until such sale the property shall be deposited in some fit place or it may remain in custody of some fit person approved by the officer executing the writ.

The provisions of sections 129 to 133, so far as the same are applicable, shall be applied to sales under this section.

Collector may

100. If before the day fixed for the sale a third party appear before the

Collector and claim a right or interest in any of the moveable property taken in execution, the Collector shall examine such party or his agent on oath or affirmation or otherwise, according to the law for the time being in force relative to the examination of witnesses, and if he see sufficient reason for so doing may stay the sale of such property

stay sale of moveable property seized if third party claim interest therein

101 The Collector shall adjudicate upon such claim and make such order between the claimant and the plaintiff and defendant in the original suit as shall seem fit

Collector to adjudicate such claims

In trying such claim the Collector shall be guided by the rules contained in this Act so far as they may be applicable.

102 If the claimant shall fail to establish his right to the property taken in execution, the Collector at the time of disposing of the case may award to the judgment-creditor against such claimant as part of the costs such sum as he may consider sufficient to cover any loss of interest or damage which the judgment-creditor may have sustained by reason of the postponement of the sale of the property.

Claimant failing to establish right liable to compensate judgment-creditor

103 No appeal shall lie from any order passed by the Collector under the two last preceding sections. But the party against whom the same may be given shall be at liberty to bring a suit in the Civil Court to establish his right at any time within one year from the date of the order

No appeal from order under sections 101, 102

Provided that, if the order be for the sale of the property, the suit shall not be for the recovery of the property, but shall be for damages against the judgment-creditor by whom the property was brought to sale.

Proviso

104 No irregularity in publishing or conducting a sale of moveable property under an execution shall vitiate such sale, but this rule shall not be held to deprive any person who may sustain damage by reason of such irregularity from recovering such damage by action in the Civil Court

Sale not vitiated by irregularity in publishing or conducting

Provided such action be brought within one year from the date of sale

Proviso

105 If the decree be for an arrear of rent due in respect of an under-tenure, which by the title-deeds or the custom of the country is transferable by sale, the judgment-creditor may make application for the sale of the tenure, and the tenure may thereupon be brought to sale in execution of the decree according to the rules[a] for the sale of under-tenures for the recovery of arrears of rent due in respect thereof contained in any law for the time being in force

Sale of transferable tenures in execution of decrees for arrears of rent

But no such application shall be received when a warrant of execution has been previously issued against the person or moveable property of the judgment-debtor so long as such warrant remains in force

[a] For these rules, see Ben Act VIII of 1865, s 4, *et seq*

If after sale of an under-tenure any portion of the amount decreed remains due, process may be applied for against any other property, moveable or immoveable, belonging to the debtor, and any such immoveable property may be brought to sale in the manner provided in section 110 of this Act.

If third party claim to be lawful possessor of tenure, Collector to stay sale and to enquire and adjudicate.

106. If before the day fixed for the sale of any such under-tenure as aforesaid in execution of a decree for arrears of rent due in respect of such under-tenure, a third party appear before the Collector and allege that such third party and not the person against whom the decree has been obtained is the proprietor of such under-tenure, and was in lawful possession of the same at the time when such decree was obtained, the Collector shall examine such party in the manner provided in section 100 for the examination of third parties, and if he see sufficient reason for so doing, and such party shall deposit in Court the amount of the decree or give sufficient security for the same, the Collector shall stay the sale and proceed to enquire into and adjudicate upon the claim :

Proviso.

Provided that no transfer of an under-tenure which by the provisions of this Act or any other law for the time being in force is required to be registered in the shaishtá of the zamindár or superior tenant shall be recognised unless it have been so registered, or unless sufficient cause for non-registration be shown to the satisfaction of the Collector.

Mode of adjudicating claims.

107. In trying such claim the Collector shall be guided by the rules contained in this Act, so far as the same may be applicable, and the judgment passed by the Collector on such claim shall not be subject to appeal, but the party against whom it is given may bring a suit in the Civil Court to establish his right at any time within one year from the date of the judgment.

Execution of decrees given in favour of sharers in undivided estates or tenures.

108. If a decree is given in favour of a sharer in a joint undivided estate, dependent taluq or other similar tenure for money due to him on account of his share of the rent of an under-tenure situate in such undivided estate or taluq or tenure, application for the sale of such under-tenure shall not be received unless execution shall have been first taken out against any moveable property which the judgment-debtor may possess within the district in which the suit was instituted and the sale of such property, if any, shall have proved insufficient to satisfy the judgment.

In such case such under-tenure, if of the nature described in section 105, may be brought to sale in execution of the decree in the same manner as any other immoveable property may be sold in execution of a decree for money under the provisions of the two next following sections.

If execution against immoveable property when

109. In the execution of any decree for the payment of money under this Act not being money due as arrears of rent of a saleable under-tenure, if satisfaction of the judgment cannot be obtained by execution against the person

or moveable property of the debtor within the district in which the suit was instituted, the judgment-creditor may apply for execution against any immoveable property belonging to such debtor. money-decree cannot be otherwise satisfied.

110. If the immoveable property against which execution is applied for be a house or other building, process shall be issued in the same manner as for the attachment and sale of moveable property, and the provisions of sections 98 and 99 shall be applicable to the execution of such process. Execution against house or building.

If the property be a saleable under-tenure, it shall be sold under the provisions of the law for the time being in force applicable to the sale of such under-tenures for demands other than those of arrears of rent due in respect thereof. Against saleable under-tenure.

If the property be an estate or a share of an estate, it shall be sold under the rules in force for the sale of estates for the recovery of demands recoverable by the same process as arrears of land-revenue. If it be an estate or a share of an estate.

111. If, before the day fixed for the sale of any immoveable property as aforesaid, objection shall be offered to the sale on the ground of such property not belonging to the judgment-debtor, and consequently not being liable to be sold in execution of a decree against him, the Collector shall examine the party making the objection in the manner prescribed in section 100 for the examination of third parties, and, if satisfied that there is sufficient ground for so doing, shall stay the sale and proceed to enquire into and adjudicate upon the objection, in the same manner, and subject to the same right of suit by the party against whom judgment may be given, as is provided in section 107. Consequence of objection offered before sale of immoveable property.

112. The produce of the land is held to be hypothecated for the rent payable in respect thereof; and, when an arrear of rent as defined in section 20 of this Act is due from any cultivator of land, the zamindár, lákhirájdár, farmer, dependent taluqdar, under-farmer or other person entitled to receive rent immediately from such cultivator, instead of bringing suit for the arrear as hereinbefore provided, may recover the same by distraint and sale of the produce of the land on account of which the arrear is due under the following rules: Produce of land held hypothecated for rent. Arrears of rent recoverable by distraint under following rules.

Provided always that, when a cultivator has given security for the payment of his rent, the produce of the land for the rent of which security has been given shall not be liable to distraint: Cultivators who have given security exempt from distraint. Proviso.

Provided also that no sharer in a joint estate, dependent taluq or other tenure in which a division of lands has not been made amongst the sharers shall exercise the power of distraint, otherwise than through a manager authorized to collect the rents of the whole estate, taluq or tenure on behalf of all the sharers in the same.

Distraint when barred.

113. Distraint shall not be made for any arrear which has been due for a longer period than one year, nor for the recovery of any sum in excess of the rent payable for the same land in the preceding year, unless a written engagement for the payment of such excess has been executed by the cultivator.

Power of distraint of managers under Court of Wards, &c.

114. The power of distraint vested by section 112 in zamindárs and other persons entitled to receive rent from cultivators of land may be exercised by managers under the Court of Wards, sarbaráhkárs and tahsildárs of estates held under khás management, and other persons lawfully entrusted with the charge of landed property; and also by the náibs, gumáshtás and other agents employed by any such persons as aforesaid in the collection of rent if expressly authorized by power-of-attorney in that behalf:

Proviso.

Provided that, if any illegal act is committed by any such náib, gumáshtá or other agent under colour of the exercise of the said power, the person employing such agent shall be liable, as well as the agent, for any damages accruing by reason of such act.

Standing crops and cropsgathered but not stored liable to distraint.

115. Standing crops and other ungathered products of the earth, and crops or other products when reaped or gathered, and deposited in any threshing-floor or place for treading out grain or the like, whether in the field or within a homestead, may be distrained by persons invested with the powers of distraint under the provisions of this Act.

But no such crops or products other than the produce of the land in respect of which an arrear of rent is due or of land held under the same engagement, and no grain or other produce after it has been stored by the cultivator, and no other property whatsoever, shall be liable to distraint under this Act.

Defaulter to be served with written demand, &c., before or at time of distraint.

116. Before or at the time when distraint is made under this Act, the distrainer shall cause the defaulter to be served with a written demand for the amount of the arrear, together with an account exhibiting the grounds on which the demand is made.

The demand and account shall, if practicable, be served personally on the defaulter, or, if he abscond or conceal himself so that they cannot be so served, shall be affixed at his usual place of residence.

Distress proportionate to arrear. List of property served on owner.

117. Unless the amount of the demand is immediately paid or tendered, the distrainer may distrain property as aforesaid of value proportionate to the amount of the arrear with costs of the distress, and shall prepare a list or description of the said property, and deliver a copy of the same to the owner, or if he be absent affix it at his usual place of residence.

Standing

118. Standing crops and other ungathered products may, notwithstanding

the distraint, be reaped and gathered by the cultivator, and may be stored in such granaries or other places as are commonly used by him for the purpose. crops, &c., when attached, to be reaped and stored by cultivator, or, if he neglect to do so, by distrainer.

If the cultivator neglect to do so, the distrainer shall cause the said crops or products to be reaped or gathered, and in such case shall store the same either in such granaries or other places as aforesaid, or in some other convenient place in the neighbourhood.

In either case the distrained property shall be placed in the charge of some person appointed by the distrainer for the purpose.

Crops or products which from their nature do not admit of being stored may be sold before they are cut or gathered, under the rules hereinafter provided; but in such case the distraint shall be made at least twenty days before the time when the crops or products or any part of the same would be fit for cutting or gathering.

119. If a distrainer shall be opposed or shall apprehend resistance, and shall desire to obtain the assistance of a public officer, he may apply to the Collector, and the Collector may, if he thinks necessary, depute an officer to support the distrainer in making the distraint. Distrainer may apply for aid to Collector in case of resistance.

120. When any person empowered to distrain property under section 112 or section 114 shall employ a servant or other person to make the distress, he shall give to such servant or person a written authority[a] for the same, and the distress shall be made in the name and on the responsibility of the person giving such authority. Servants employed to distrain to be furnished with written authority.

121. If at any time after property has been distrained, and prior to the day fixed for its being put up to sale as hereinafter provided, the owner of the property shall tender payment of the arrear demanded of him and of the expenses of the distress, the distrainer shall receive the same and shall forthwith withdraw the distress. Distress withdrawn if defaulter tender payment of arrear and expenses prior to sale.

122. Within five days from the time of the storing of any distrained crops or products, or if the crops or products do not, from their nature, admit of being stored, within five days from the time of making the distress, the distrainer shall apply for sale of the same to the Civil Court amin or other officer authorized to sell property in satisfaction of decrees of the Civil Court within the circle in which the distrained property is situate, or to such other public officer as the Local Government shall appoint for the purpose. Application for sale.

123. The application shall be in writing and shall contain an inventory or description of the property distrained, the name of the defaulter and his place of residence, the amount due and the date of the distress, and the place in which the distrained property is deposited. Form of application.

[a] Certain words in s. 120, repealed by Act VII of 1870, s. 2, have here been omitted.

Deposit of cost of notice to defaulter.

Together with the application, the distrainer shall deliver to the Civil Court amin or other officer the amount necessary for the service of a notice upon the defaulter as hereinafter provided.

Procedure of amin on receipt of application.

124. Immediately on receipt of the application the Civil Court amin or other officer shall transmit a copy of it to the Collector; and shall serve a notice (which shall be in the form (G) contained in the schedule to this Act or to the like effect) on the person whose property has been distrained, requiring him either to pay the amount demanded, or to institute a suit to contest the demand before the Collector within the period of fifteen days from the receipt of the notice.

He shall at the same time send to the Collector, for the purpose of being put up in his office, a proclamation fixing a day for the sale of the distrained property, which shall not be less than twenty days from the date of the application; and shall deliver a copy of the proclamation to the peon charged with the service of the notice, to be put up by him in the place where the distrained property is deposited.

The proclamation shall contain a description of the property, the demand for which it is to be sold and the place where the sale is to be held.

Amin to suspend sale on receipt of Collector's certificate of institution of suit.

125. If a suit shall be instituted before the Collector in pursuance of the aforesaid notice, the Collector shall transmit to the Civil Court amin or other officer, or if so requested shall deliver to the owner of the distrained property, a certificate of the institution of such suit; and, on such certificate being received by or presented to the amin or other officer, he shall suspend proceedings in regard to the sale of the distrained property.

Suit to contest distrainer's demand before notice of sale.

126. A person whose property has been distrained in the manner hereinbefore provided may institute a suit to contest the demand of the distrainer immediately after the distraint of his property, and before the issue of notice of sale.

When such suit is instituted, the Collector shall proceed in the manner prescribed in the last preceding section.

If thereafter application for the sale of the property is made to the Civil Court amin or other officer, he shall transmit a copy of the application to the Collector and suspend further proceedings pending the decision of the case.

Distress withdrawn on receipt of Collector's certificate of execution of bond to pay amount due.

127. The person whose property has been distrained may, at the time of instituting any such suit as aforesaid or at any subsequent period, execute a bond with security binding himself to pay whatever sum may be adjudged to be due from him with interest and costs of suit, and, when such bond is executed, the Collector shall give to the owner of the property a certificate to that effect, or if so requested shall serve the distrainer with notice of the same;

and, upon such certificate being presented to the distrainer by the owner of the property or served on him by order of the Collector, the property shall be released from distraint.

On expiration of period fixed in proclamation of sale, if institution of suit to contest demand not certified, sale may proceed.

128. On the expiration of the period fixed in the proclamation of sale, if the institution of a suit to contest the demand of the distrainer has not been certified to the Civil Court amin or other officer in the manner hereinbefore provided, he shall, unless the said demand, with such costs of the distress as shall be allowed by him, be discharged in full, proceed to sell the property or such part of it as may be necessary in the manner following.

Place and manner of sale of distrained property.

129. The sale shall be held at the place where the distrained property is deposited, or at the nearest ganj, bázár, hát or other place of public resort, if the Civil Court amin or other officer should be of opinion that it is likely to sell there to better advantage.

The property shall be sold by public auction in one or more lots as the officer holding the sale may think advisable; and, if the demand with the costs of distress and sale be satisfied by the sale of a portion of the property, the distress shall be immediately withdrawn with respect to the remainder.

If fair price not offered, sale may be postponed; and shall be then completed whatever price offered.

130. If on the property being put up for sale a fair price in the estimation of the officer holding the sale be not offered for it, and the owner of the property or some person authorized to act on his behalf apply to have the sale postponed until the next day, or the next market-day if a market be held at the place of sale, the sale shall be postponed until such day and shall be then completed at whatever price may be offered for the property.

Payment of purchase-money.

131. The price of every lot shall be paid for in ready money at the time of sale or as soon after as the officer holding the sale shall think necessary; and in default of such payment the property shall be put again and sold.

When the purchase-money has been paid in full, the officer holding the sale shall give the purchaser a certificate describing the property purchased by him and the price paid.

Disposal of proceeds of sale

132. From the proceeds of the sale of distrained property the officer holding the sale shall make a deduction at the rate of one anna in the rupee on account of the costs of the sale, and shall transmit the amount to the Collector in order that it may be credited to Government.

He shall then pay to the distrainer the expenses incurred by the distrainer on account of the distress and of the issue of the notice and proclamation of sale prescribed in section 124 to such amount as, after examination of the statement of expenses furnished by the distrainer, he shall think proper to allow.

The remainder shall be applied to the discharge of the arrear for which the distraint was made, with interest thereon up to the day of sale, and, if there be any overplus, it shall be delivered to the person whose property shall have been sold.

Officers holding sales prohibited from purchasing.

133. Officers holding sales of property under this Act and all persons employed by or subordinate to such officers are prohibited from purchasing either directly or indirectly any property sold by such officers.

Irregularities to be reported to Collector.

Officer not to sell, if he find that defaultor has not received notice.

134. Civil Court amins and other officers as aforesaid are required to bring to the notice of Collectors any material irregularities committed by distrainors under colour of this Act; and if in any case, on proceeding to hold a sale of property, the Civil Court amin or other officer shall find that the owner of the property has not received due notice of the distress and intended sale, he shall postpone the sale and report the case to the Collector, and the Collector shall direct the issue of another notice and proclamation of sale under section 124 or pass such other order as he may think proper.

Recovery of expenses if amin proceeds to place of sale and no sale takes place.

135. When a Civil Court amin or other officer has proceeded to any place for the purpose of holding a sale and no sale takes place either for the reason stated in the last preceding section or because the demand of the distrainer has been previously satisfied, no intimation of such satisfaction having been given by the distrainor to the Civil Court amin or other officer, the charge of one anna in the rupee on account of expenses shall be leviable and shall be calculated on the estimated value of the distrained property.

If the demand of the distrainer be not satisfied until the day fixed for the sale, the charge for expenses shall be paid by the owner of the property and may be recovered by the sale of such portion thereof as may be necessary.

In every other case it shall be paid by the distrainer and may be recovered by attachment and sale of the property of the distrainer under the warrant of the Collector:

Provided always that in no case shall a larger amount than ten rupees be recoverable under this section.

Proceedings of amins, &c., subject to revision and orders of Collectors.

136. All proceedings under this Act of the Civil Court amins and other officers as aforesaid shall be subject to the revision and orders of the Collectors, and the Collectors, with the sanction of the Boards of Revenue, may require the submission of such periodical reports and statements of business performed by the Civil Court amins and other officers as may be thought necessary.

Second proclamation of sale.

137. When a suit has been instituted to contest the demand of a distrainer and the property has not been released on security, if the demand or any portion of it shall be adjudged to be due, the Collector shall issue an order to

the Civil Court amin or other officer authorizing the sale of the property, and on the application of the distrainer, which shall be made within five days from the receipt of such order by the Civil Court amin or other officer, such amin or officer shall publish a second proclamation in the manner prescribed in section 124, fixing another day for the sale of the distrained property, which shall not be less than five nor more than ten days from the date of the proclamation; and, unless the amount adjudged to be due with the cost of distress be paid intermediately, shall proceed to sell the property in the manner hereinbefore provided.

Procedure after institution of suit to contest demand.

138. In all suits instituted to contest the demand of a distrainer, the distrainer shall be required to prove the arrear in the same manner as if he had himself brought suit for the amount under the foregoing provisions of this Act.

If the demand or any part thereof is found to be due, the Collector shall make a decree for the amount in favour of the distrainer, and the amount may be recovered by sale of the property as provided in the last preceding section if the distress has not been withdrawn, and, if any balance remain due after such sale, by execution of the decree against the person and any other property of the defaulter, or, if the property have been released on security, by execution of the decree against the person and property of the defaulter and of his surety.

If, on the other hand, the distraint is adjudged to be vexatious or groundless, the Collector, besides directing the release of the distrained property, may award such damages in favour of the plaintiff as the circumstances of the case shall seem to require.

Owner of property distrained for arrears alleged to be due from another may institute suit against distrainer, &c.

139. If any person shall claim, as his own, property which has been distrained for arrears of rent alleged to be due from any other person, such person may institute a suit against the distrainer and such other person to try the right to the property in the same manner and under the same conditions as to the time of instituting the suit and to the consequent postponement of sale, as a person whose property has been distrained for an arrear of rent alleged to be due from him may institute a suit to contest the demand.

When any such suit is instituted, the property may be released upon security being given for the value of the same.

If the claim is dismissed, the Collector shall make an order for the sale of the property or the recovery of the value thereof, as the case may be, for the benefit of the distrainer.

If the claim is upheld, the Collector shall decree the release of the distrained property with costs, and such damages (if any) as the circumstances of the case may seem to require:

Proviso.

Provided always that no claim to any produce of land liable to distraint under this Act, which at the time of the distress may have been found in the possession of a defaulting cultivator, whether such claim be in respect of a previous sale, mortgage or otherwise, shall bar the prior claim of the person entitled to the rent of the land, nor shall any attachment in execution of a judgment of any Civil Court prevail against such prior claim.

Procedure if right to distrain be disputed.

140. If, in any case in which property has been distrained for an arrear of rent and a suit has been instituted to contest the demand, the right to distrain for such arrear is claimed by or on behalf of any person other than the distrainer on the ground of such other person being actually and in good faith in the receipt and enjoyment of the rent of the land, such other person shall be made a party to the suit, and the question of the actual receipt and enjoyment of the rent by such other person before and up to the time of the commencement of the suit shall be enquired into, and the suit shall be decided according to the result of such enquiry:

Provided always that the decision of the Collector shall not affect the right of either party who may have a legal title to the rent of the land to establish his title by suit in the Civil Court if instituted within one year from the date of the decision.

Persons prevented from suing in time to save property from sale may sue for damages.

141. If any person whose property has been distrained for the recovery of a demand not justly due, or of a demand due or alleged to be due from some other person, is prevented by any sufficient cause from bringing suit to contest the demand, or to try the right to the property, as the case may be, within the period allowed by sections 124 and 139, and his property is in consequence brought to sale, he may nevertheless institute a suit under this Act to recover damages for the illegal distress and sale of his property.

Also persons aggrieved by illegal act of distrainer.

142. If any person empowered to distrain property or employed for the purpose under a written authority by a person so empowered, shall distrain or sell, or cause to be sold, any property for the recovery of an arrear of rent alleged to be due, otherwise than according to the provisions of this Act, or if any distrained property shall be lost, damaged or destroyed by reason of the distrainer not having taken proper precaution for the due keeping and preservation thereof, or if the distraint shall not be immediately withdrawn when it is required to be withdrawn by any provision of this Act, the owner of the property may institute a suit under this Act to recover damages for any injury which he may have thereby sustained.

Unlawful distraint.

143. If any person not empowered to distrain property under sections 112 and 114 of this Act, nor employed for the purpose under a written authority by a person so empowered, shall distrain or sell or cause to be sold any pro-

perty under colour of this Act, the owner of the property may institute a suit under this Act to recover damages from such person for any injury which he may have sustained from the distraint or sale.

The said person shall be held to have committed criminal trespass, and shall be subject to the penalties for that offence in addition to any damages which may be awarded against him in such suit:

Time for commencing suits for damages.

144. Provided always that any suit which may be instituted under any of the last three sections shall be commenced within three months from the date of the occurrence of the cause of action.

Resistance of distraint.

145. If any person shall resist a distraint of property duly made under this Act, or shall forcibly or clandestinely remove any distrained property, the Collector, upon complaint being made within fifteen days from the date of such resistance or removal, shall cause the person accused to be arrested, and, if the offence be proved and the offender be the owner of the property, shall order him to be imprisoned in the civil jail for six months, or until the whole arrear due to the distrainer with all expenses and costs shall sooner be paid or levied by distress and sale of the property of the offender under warrant of the Collector.

If the person convicted of the offence be any other than the owner of the property, he shall make good to the distrainer the value of the same, and shall further be liable to a fine not exceeding one hundred rupees, or, in default of payment thereof, to imprisonment for a period not exceeding two months.

Service of process.

146. Every process issued by a Collector under this Act shall be under the seal and signature of the Collector, and shall be served or executed by the názir or by such other officer as the Collector may direct at the cost of the party at whose instance it issued.

The amount of such cost, and, in the case of summons to a witness, any sum required for the travelling expenses of such witness, shall be deposited in Court before the process is issued:

Provided that, if in any case the Collector is satisfied that a party is unable to pay the cost of any necessary process, he may direct such process to be served free of charge.

Resistance of process.

147. Any resistance or opposition to the lawful process of a Collector under this Act may be punished by the Collector according to the provisions of the law for the time being in force for the punishment of resistance or opposition to the processes of the Courts of civil justice.

When in any such case the offender is not present in Court, the Collector

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* As to immediate disposal of case, where person is arrested under s. 145, see Ben. Act VI of 1862, s. 18.

may summon him to answer to the charge, and, if after due service of the summons he fail to attend, may issue a warrant for his apprehension.

Orders passed by Collectors under this section shall not be deemed to be orders relating to the trial of suits or to the execution of decrees within the meaning of section 151.

Place of holding Court.

148. It shall be competent to the Collector to hold a Court for hearing and determining suits under this Act in any place within the limits of his district or local jurisdiction :

Proviso.

Provided that every hearing and decision shall be in open Court, and that the parties to the suit or their authorized agents shall have had due notice to attend at such place.

149. [*Agents or mukhtárs.*] *Rep. by Act XX of 1865, s. 3.*

150. [*Powers of Deputy Collectors.*] *Rep. by Ben. Act VI of 1862, s. 1.*

Control of Collectors and Deputy Collectors.

151. In the performance of their duties under this Act the Collectors and Deputy Collectors shall be subject to the general direction and control of the Commissioners and the Boards of Revenue ; and the Deputy Collectors shall be subject to the direction and control of the Collectors to whom they are subordinate.

No appeal from orders of Collectors and Deputy Collectors in certain cases.

All orders passed by a Collector under this Act, not being judgments in suits or orders passed in the course of suits and relating to the trial thereof, or orders passed after decree and relating to the execution thereof, shall be appealable to the Commissioner ; and all such orders passed by a Deputy Collector shall be appealable to the Collector ; but no judgment of a Collector or Deputy Collector in any suit, and no order of a Collector or Deputy Collector passed in any suit and relating to the trial thereof, or after decree and relating to the execution thereof, shall be open to revision or appeal otherwise than as expressly provided in this Act.

Time for presenting appeals from orders.

152. Every appeal against the order of a Collector shall be presented to the Commissioner within thirty days, and every appeal against the order of a Deputy Collector shall be presented to the Collector with fifteen days, from the date of the order.

Orders passed in appeal by a Commissioner or a Collector shall not be open to any further appeal, but the Board of Revenue or the Commissioner may call for any case and pass such orders thereon as they may think proper.

When appeal allowed from judgment of Collector for money below 100 rupees.

153. In suits under clauses (2), (4) and (7) of section 23 and under section 24 of this Act, tried and decided by a Collector, if the amount sued for or the value of the property claimed does not exceed one hundred rupees, the judgment of the Collector shall be final and not open to revision or appeal except as hereinafter provided, unless in any such suit a question of right to enhance or otherwise vary the rent of a raiyat or tenant, or any question relating to a

title to land, or to some interest in land as between parties having conflicting claims thereto, has been determined by the judgment, in which case the judgment shall be open to appeal in the manner provided in sections 160 and 161 of this Act.

Re-hearing in suits not open to appeal.

154. In suits in which the judgment of the Collector is final as provided in the last preceding section, the Collector may, upon the application of either party, if preferred within thirty days from the date of the decision, order the re-hearing of a suit, upon the ground of the discovery of new evidence or matter material to the issue of the case which the applicant had no knowledge of, or could not produce, at the time of trial.

Appeal from decision of Deputy Collector.

155. When any such suit as aforesaid, in which if tried and decided by a Collector the judgment of the Collector would be final, is tried and decided by a Deputy Collector, an appeal from the judgment of the Deputy Collector shall lie to the Collector.

Petition of appeal.

156. The petition of appeal shall be written[a] and shall be presented to the Collector within fifteen days from the date of the decree, provided that such time as may be requisite for procuring a copy of the decree appealed against shall not be reckoned as part of the fifteen days.

Procedure in appeal.

157. The Collector shall fix a day for hearing the appeal, and shall cause notice of the same to be served on the respondent in the manner hereinbefore prescribed for the service of summons.

If, on the day fixed for hearing the appeal or any other day to which the hearing may be adjourned, the appellant shall not appear in person or by an agent, the appeal shall be dismissed for default.

If the appellant shall appear and the respondent shall not appear in person or by an agent, the appeal shall be heard *ex parte*.

Re-admission of appeal.

158. If an appeal be dismissed for default of prosecution, the appellant may, within fifteen days from the date of the dismissal, apply to the Collector for the re-admission of the appeal, and, if it shall be proved to the satisfaction of the Collector that the appellant was prevented by any sufficient cause from appearing when the appeal was called on for hearing, the Collector may re-admit the appeal.

Judgment in appeal.

159. After hearing the appeal the Collector shall give judgment in the manner hereinbefore prescribed for giving judgment in original suits, and the judgment of the Collector shall be final.

In what suits appeal to lie to Zila Judge;

160. In all suits other than those in which, when tried and decided by a Collector, the judgment of the Collector is declared to be final, or when tried

[a] Certain words in s. 156, repealed by Act VII of 1870, s. 2, have here been omitted.

and decided by a Deputy Collector an appeal is allowed to the Collector, an appeal from the judgment of the Collector or Deputy Collector shall lie to the Zila Judge; unless the amount or value in dispute exceed five thousand rupees, in which case the appeal shall lie to the Sadr Court.

to Sadr Court

Presentation and hearing of appeals.

161.[a] The petition of appeal shall be written;[b] and the rules in force in regard to the time within which appeals from the decisions of such Courts may be received, and to the manner in which such appeals are heard and determined, and to all proceedings which may be had in respect of such appeals, shall be applicable to appeals to the Zila Judge or Sadr Court under this Act.

162. [*Revenue-offices in which suits to be preferred.*] *Rep. by Ben. Act VI of 1862, s. 1.*

No jurisdiction in Collector as to lands beyond district.

163. *Except as provided in the last preceding section*, no Collector shall exercise any jurisdiction under this Act in respect to any lands situate beyond the limits of the district to which he is appointed, by reason of such lands forming part of an estate the revenue of which is paid into the treasury of the said district.

Deputy Collector when not to exercise judicial powers.

164. No Deputy Collector appointed under Regulation IX, 1833, of the Bengal Code shall exercise any judicial powers or other jurisdiction under this Act if entrusted with any police-functions.

Powers to be exercised by Assistants to Collectors.

165. Assistants to Collectors shall not exercise any powers under this Act unless invested by Government with the powers of Deputy Collectors, in which case they may exercise the powers hereby assigned to Deputy Collectors.

Saving of rights of proprietors as to tenures under Reg. VIII, 1819

166. Nothing contained in this Act shall be held to affect the right, vested in proprietors of land under direct engagements with Government, of bringing to sale for arrears of rent patni-taluqs and other similar tenures under the provisions of Regulation VIII, 1819.

167. [*Commencement of Act.*] *Rep. by Act XIV of 1870, s. 1.*

"Civil jail."

168. The words "civil jail" as used in this Act shall include the civil jail of the zila and any place appointed by the Executive Government for the confinement of prisoners by any Court constituted under this Act:

"Názir."

The word "názir" shall include any officer of a Court authorized to serve or execute its process:

Number.

Unless there be something in the subject or context repugnant to such construction, words importing the singular number shall include the plural

[a] As to appeals under s. 10 of Ben. Act VI of 1862 being subject to the provisions of s. 161, see that enactment

[b] Part of s. 161, repealed by Act VII of 1870, s. 2, has here been omitted.

number, and words importing the plural number shall include the singular number; and words importing the masculine gender shall include females. Gender.

SCHEDULE.[a]

FORM A (*see section 44*).

FORM OF SUMMONS TO DEFENDANT.

No. (of suit) dated

In the Court of

A B, Plaintiff.

[*Name, description and address of plaintiff.*]

C D, Defendant.

[*Name, description and address of defendant.*]

Whereas the said *A B* has brought a claim against you in this Court for [*here specify particulars of claim as given in the statement*], you are hereby required to appear in person in this Court on the day of [*if not specially required to appear in person, state,* "in person or by an agent who has personal knowledge of the subject or who shall be accompanied by a person who has such knowledge"] to answer the above-named plaintiff, and you will bring with you (*or* send by your agent) [*here mention any document the production of which may be required by the plaintiff*] which the plaintiff desires to inspect, and all documents on which you may intend to rely in support of your defence. You will also bring with you your witnesses, if they are willing to attend without issue of process.

FORM B (*see section 49*).

FORM OF WARRANT OF ARREST.

No. (of suit) dated

In the Court of

A B, Plaintiff.

C D, Defendant.

To the Názir of the Court of the Collector of

Whereas the plaintiff in this suit has obtained an order from the Court for the arrest of the defendant, you are hereby commanded to bring the defendant before the Court on or before the day of to be dealt with according to law.

Dated this day of 18

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[a] S. 86 having been repealed, forms E and F, therein referred to, have been omitted from the schedule.

FORM C (*see section 49*).

FORM OF NOTICE TO ACCOMPANY SUCH WARRANT.

In the Court of

A B, Plaintiff.

[*Name, description and address of plaintiff.*]

C. D, Defendant.

[*Name, description and address of defendant.*]

Whereas the said *A B* has brought a claim against you in this Court for [*here specify particulars of claim as given in the statement*] and has obtained a warrant for your arrest, you are hereby required, unless you admit the claim, to bring with you to the Court all documents on which you may intend to rely in support of your defence.

FORM D (*see section 51*).

FORM OF SECURITY-BOND FOR APPEARANCE OF DEFENDANT.

Whereas *A B*, plaintiff, has instituted a suit in the Court of the Collector of against *C D*, defendant, and the said *C D* has been required to give security for his appearance at any time when called on while the suit is depending and until execution of the decree, *I, E F*, hereby declare myself surety for the said *C D's* appearance as aforesaid, and, in case of his making default in such appearance, I engage to pay any sum for the payment of which the said *C D* may be liable under the decree. [*If the suit be for the delivery of papers or accounts specify some sum to be fixed by the Collector.*]

FORM G (*see section 124*).

FORM OF NOTICE TO OWNER OF DISTRAINED PROPERTY.

Office of Commissioner for sale of distrained property.

A B, Distrainer.

[*Name, description and address of the owner of the property.*]

Whereas the said *A B* has applied to have the distrained property specified below sold for the recovery of alleged to be due to him as arrears of rent, you are hereby required either to pay the said sum to the said *A B*, or to institute a suit before the Collector to contest the demand within fifteen days from the receipt of this notice, failing which the property will be sold.

Dated this day of 18 .

SALES OF LAND FOR ARREARS OF REVENUE ACT.

ARRANGEMENT OF SECTIONS.

PREAMBLE.

SECTIONS.

1. [*Repealed*]

SECTIONS.

2. "Arrear of revenue" defined.
3. Latest day of payment.
4. In Sylhet, personal property of defaulters may in first instance be distrained and sold. (Repealed)
5. Proviso as to certain descriptions of arrears.
6. Issue of notifications of sale.
Tender after latest day of payment not to stop sale.
7. Notice to raiyats, &c.
8. Claims of defaulter against Government not to invalidate sale.
9. Deposits receivable from persons not proprietors.
10. Separation of shares held in common, by opening separate account.
11. Separation of shares consisting of specific portions of land, by opening separate account.
12. If objection be made, parties to be referred to Civil Court.
13. Sale of separate shares.
14. Entire estate may be sold under certain conditions.
15. Deposit for protection of estate from sale.
16. Withdrawal of deposit.
17. Estates under attachment.
18. Power to exempt from sale.
Proviso.
19. Sales where to be made.
20. Adjournment of sales.
21. Order of selling.
22. Deposit on account of purchase-money.
23. Full payment of purchase-money.
24. Re-sale.
25. [*Repealed.*]
26. Annulment of sale in special cases.
27. Sales when final.
28. Certificate of sales.
29. Delivery of possession.
30. Liability of purchaser.
31. Application of purchase-money.
32. Notification of annulment of sale.
33. Jurisdiction of Civil Courts in suits to annul sales.
Proviso.
34. Effects of annulment of sales by decree of Court.
35. If sale annulled, purchase-money to be refunded.
36. Dismissal of suit brought to oust purchaser on ground that purchase was made for another.
37. Rights of purchaser of permanently-settled estate sold for its own arrears.
Proviso.
38. Registration of certain tenures and farms.
39. Common and special registry.
40. Application for registry.
41. Procedure on application for common registry.
42. Procedure on application for special registry.
43. Registration of leases of certain lands.

SECTIONS.

44. Registration of old tenures.
Proviso.
45. [*Repealed.*]
46. Expenses of measurement, survey or local enquiry.
47. Civil Court not competent to order entry in special register
48. Suit for cancelment of registry of tenure or farm.
49. Proceedings of Revenue-authorities in registration of tenures, &c.
50. Effect of entry in special register.
51. Protection of taluqdári tenures pending enquiry, in case of sale of parent estate for arrears of revenue.
52. Rights of purchaser of estate not permanently settled sold for its own arrears
53. Rights of purchaser being sharer in estate; and of purchaser of an estate not sold for its own arrears
54. Rights of purchasers of shares of estate.
55. Recovery of arrears due to defaulters.
56. Punishment for contempt.
57. Default as to deposit a contempt.
58. Government may purchase at sale.
59. [*Repealed*]
60. Regulations VII, 1822, and IX, 1825, in force in certain estates.
61. Interpretation.
62. Application of Act.
SCHEDULE A.—CERTIFICATE OF SALE.
SCHEDULE B.—FEES.

ACT No. XI OF 1859.[a]

Received the Governor General's assent on the 4th May, 1859.

An Act to improve the law relating to sales of land for arrears of revenue in the Lower Provinces under the Bengal Presidency.

Preamble.

WHEREAS it is expedient to discontinue the practice of obtaining the previous sanction of the Board of Revenue to sales of estates for arrears of revenue, or other demands of Government, in the Province of Cuttack · and

[a] This Act has been declared to apply to the whole of Bengal except the Scheduled Districts by Act XV of 1874, s. 6 It has also been declared in force by Reg III of 1872, s 3, as amended by Reg III of 1886, s 2, in the Sonthal Pergunnahs, and under the Scheduled Districts Act, 1874, it has been declared in force in West Jalpáiguri, and extended to the Darjeeling district, Western Dwárs, the districts of Hazáribágh, Lohardugga and Manbhoom, Pergunnah Dhalbhoom and the Kolhan—see *infra*, pp 636, 637 and 662.

The Act has been repealed in the territories to which the Assam Land and Revenue Regulation, 1886, extends, see Reg I of 1886, s. 2, Assam Supplement.

The words "proprietor", "revenue", "estate", "tenure", "jurisdiction" (of a Collector), "Collector" and "demand", occurring in the Act, are defined in Ben Act VII of 1868, s 1.

Ben Acts III of 1862 and VII of 1868 are to be read with and taken as part of this Act—see s. 20 of the former Act

The Public Demands Recovery Act, 1880, so far as is consistent with the tenor thereof, is to be construed as one with this Act—see Ben Act VII of 1880, s. 2.

whereas it is just that a person having a lien upon an estate, and paying the money necessary to protect it from sale for arrears of revenue, should be reasonably secured: and whereas it is expedient to afford sharers in estates, who duly pay their shares of the sadr jama of their estates, easy means of protecting their shares from sale by reason of the default of their co-sharers: and whereas it is expedient to afford landholders, particularly absentees, facilities in guarding against the accidental sale of their estates for arrears of revenue by reason of the neglect or fraud of their agents: and whereas it is expedient to provide for the voluntary registration of dependent taluqs existing at the time of settlement: and whereas it is expedient to protect the holders of registered under-tenures created since the settlement, and not resumable by the grantors or their representatives, from loss by the avoidance of their tenures on the occasion of a sale of the superior estate for arrears of public revenue, when the arrears can be realized by such sale: and to give absolute security to such tenures by special registry, when shown to be held at rents sufficient for the security of the revenue: and it is therefore proper, for the above and other purposes, to improve the law relating to sales of land for arrears of revenue in the provinces of Bengal, Behar and Orissa; It is enacted as follows:—

1. [*Laws repealed.*] *Rep. by Act XIV of 1870, s. 1.*

"Arrear of revenue" defined.

2. If the whole or a portion of a kist or instalment of any month of the era according to which the settlement and kistbandi of any mahál have been regulated be unpaid on the first of the following month of such era, the sum so remaining unpaid shall be considered an arrear of revenue.

Latest day of payment.

3. Upon the promulgation of this Act the Board of Revenue at Calcutta shall determine upon what dates all arrears of revenue and all demands which, by the Regulations and Acts in force, are directed to be realized in the same manner as arrears of revenue, shall be paid up in each district under their jurisdiction, in default of which payment the estates in arrear in those districts, except as hereinafter provided, shall be sold at public auction to the highest bidder.

And the said Board shall give notice of the dates so fixed in the official Gazette, and shall direct corresponding publication to be made, as far as regards each district in the language of that district, in the office of the Collector or other officer duly authorized to hold sales under this Act, in the Courts of the Judge, Magistrate (or Joint Magistrate, as the case may be), and Munsifs, and at every thánú-station of that district; and the dates so fixed shall not be changed except by the said Board by advertisement and notification, in the manner above described, to be issued at least three months before

the close of the official year preceding that in which the new date is, or dates are, to take effect.

In Sylhet, personal property of defaulters may in first instance be distrained and sold.

4. ~~Provided that in the district of Sylhet,* the Collector may be authorized~~ by the Board of Revenue to proceed in the first instance by the distress and sale of the personal property of defaulters, instead of by the sale of their estates.

Proviso as to certain descriptions of arrears.

5. Provided always that no estate, and no share or interest in any estate, shall be sold for the recovery of arrears or demands of the descriptions mentioned below, otherwise than after a notification in the language of the district, specifying the nature and amount of the arrear or demand, and the latest date on which payment thereof shall be received, shall have been affixed for a period of not less than fifteen clear days preceding the date fixed for payment according to section 3 of this Act in the office of the Collector or other officer duly authorized to hold sales under this Act, in the Court of the Judge within whose jurisdiction the land advertised lies, and in the Munsif's Court and police-thánáof the division in which the estate or share of an estate to which the notification relates is situated, or, if the estate or share of an estate be situated within the jurisdiction of more than one Munsif's Court or police-thánáin some one or more of such Courts or thánás, and also at the kachahri of the málguzár or owner of the estate or share of an estate, or at some conspicuous place upon the estate or share of an estate, the same to be certified by the peon or other person employed for the purpose.

First.—Arrears other than those of the current year, or of the year immediately preceding.

Secondly.—Arrears due on account of estates other than that to be sold.

Thirdly.—Arrears of estates under attachment by order of any judicial authority, or managed by the Collector in accordance with such order.

Fourthly.—Arrears due on account of takkávi, pulbandi or other demands not being land-revenue, but recoverable by the same process as arrears of land-revenue.

Issue of notifications of sale.

6. The Collector or other officer duly authorized to hold sales under this Act shall, as soon as possible after the latest day of payment fixed in the manner prescribed in section 3 of this Act, issue notifications in the language of the district, to be affixed in his own office and in the Court of the Judge of the district, specifying the estates or shares of estates which will be sold as aforesaid, and the day on which the sale of the same will commence, which

*~~The Act has been repealed in Sylhet by Reg. I of 1886, s. 2.~~

day shall not be less than thirty[a] clear days from the date of affixing the notification in the office of the Collector or other officer as aforesaid.

And, if the Government revenue of any estate or share of an estate to be sold exceed the sum of five hundred rupees, a notification of the sale of such estate or share of an estate shall be published in the official Gazette.

Except as hereinafter provided, all estates or shares of estates so specified shall, on the day notified for sale, or on the day or days following, be put up to public auction by and in the presence of the Collector or other officer as aforesaid, and shall be sold to the highest bidder.

Tender after latest day of payment not to stop sale.

And no payment or tender of payment, made after sunset of the said latest day of payment, shall bar or interfere with the sale, either at the time of sale or after its conclusion.

Notice to raiyats, &c.

7. Whenever an estate or share of an estate is notified for sale as provided by section 6 of this Act, the Collector or other officer as aforesaid shall affix a proclamation in the language of the district, in his own office, and as soon thereafter as may be in the Munsif's Courts and police-thánás within which the estate or share of an estate, or any part of it, is situated, and also at the kachahri of the málguzár or the owner of the estate or share of an estate, or at some conspicuous place upon the estate or share of an estate, forbidding the raiyats and under-tenants to pay to the defaulting proprietor any rent which has fallen due after the day fixed for the last day of payment, on pain of not being entitled to credit in their accounts with the purchaser for any sums so paid.

Claims of defaulter against Government not to invalidate sale.

8. No claim to abatement or remission of revenue, unless the same shall have been allowed by the authority of Government, and no private demand or cause of action whatever, held or supposed to be held by any defaulter against Government, shall bar or render void or voidable a sale under this Act; nor shall the plea that money belonging to the defaulter, and sufficient to pay the arrear of revenue due, was in the Collector's hands, bar or render void or voidable a sale under this Act, unless such money stand in the defaulter's name alone and without dispute, and unless, after application in due time made by the defaulter, or after the written agreement provided for in section 15 of this Act, the Collector shall have neglected, or refused on insufficient grounds, to transfer it in payment of the arrear of revenue due.

Deposits receivable from persons not proprietors.

9. The Collector or other officer as aforesaid shall, at any time before sunset of the latest day of payment determined according to section 3 of this Act, receive as a deposit from any person not being a proprietor of the estate

[a] The word "thirty" in s. 6 has been substituted by Ben. Act VII of 1868, s. 3, and certain words repealed by the same enactment have here been omitted.

or share of an estate in arrear, the amount of the arrear of revenue due, to be credited in payment of the arrear at sunset as aforesaid, unless before that time the arrear shall have been paid by a defaulting proprietor of the estate.

And in case the person so depositing, whose money shall have been credited in the manner aforesaid, shall be a party in a suit pending before a Court of Justice for the possession of the estate or share from which the arrear is due, or any part thereof, it shall be competent to the said Court to order the said party to be put into temporary possession of the said estate or share, or part thereof, subject to the rules in force for taking security in the cases of parties in civil suits.

And if the person so depositing, whose money shall have been credited as aforesaid, shall prove before a competent Civil Court that the deposit was made in order to protect an interest of the said person, which would have been endangered or damaged by the sale, or which he believed in good faith would have been endangered or damaged by the sale, he shall be entitled to recover the amount of the deposit, with or without interest as the Court may determine, from the defaulting proprietor.

And if the party so depositing, whose money shall have been credited as aforesaid, shall prove before such a Court that the deposit was necessary in order to protect any lien he had on the estate or share or part thereof, the amount so credited shall be added to the amount of the original lien.

Separation of shares held incommon, by opening separate account.

10. When a recorded sharer of a joint estate, held in common tenancy, desires to pay his share of the Government revenue separately, he may submit to the Collector a written application[a] to that effect.

The application must contain a specification of the share held in the estate by the applicant.

The Collector shall then cause to be published in his own office, in the Court of the Judge, Magistrate (or Joint Magistrate, as the case may be), and Munsifs, and in the police-thánás in whose jurisdiction the estate or any part thereof is situated, as well as on some conspicuous part of the estate itself, a copy of the application made to him.

If, within six weeks from the date of the publication of these notices, no objection is made by any other recorded sharer, the Collector shall open a separate account[b] with the applicant, and shall credit separately to his share all payments made by him on account of it. The date on which the Collector records his sanction to the opening of a separate account shall be held to be that from which the separate liabilities of the share of the applicant commence.

[a] As to fees chargeable on applications under s. 10, see Ben Act III of 1862, s. 3.
[b] As to opening a separate account under s. 10, see Ben. Act VII of 1876, s 69.

Separation of shares consisting of specific portions of land, by opening separate account.

11. When a recorded sharer of a joint estate, whose share consists of a specific portion of the land of the estate, desires to pay his share of the Government revenue separately, he may submit to the Collector a written application[a] to that effect. The application must contain a specification of the land comprised in his share, and of the boundaries and extent thereof, together with a statement of the amount of sadr jama heretofore paid on account of it.

On the receipt of this application the Collector shall cause it to be published in the manner prescribed for publication of notice in the last preceding section.

In the event of no objection being urged by any recorded co-sharer within six weeks from the time of publication, the Collector shall open a separate account[b] with the applicant and shall credit separately to his share all payments made by him on account of it.

The date on which the Collector records his sanction to the opening of a separate account shall be held to be that from which the separate liabilities of the share of the applicant commence.

If objection be made, parties to be referred to Civil Court.

12. If any recorded proprietor of the estate, whether the same be held in common tenancy or otherwise, object that the applicant has no right to the share claimed by him, or that his interest in the estate is less or other than that claimed by him, or if the application be in respect of a specific portion of the land of an estate, that the amount of sadr jama stated by the applicant to have been heretofore paid on account of such portion of land is not the amount which has been recognized by the other sharers as the jama thereof, the Collector shall refer the parties to the Civil Court and shall suspend proceedings until the question at issue is judicially determined.

Sale of separate shares.

13. Whenever the Collector shall have ordered a separate account or accounts to be kept for one or more shares, if the estate shall become liable to sale for arrears of revenue, the Collector or other officer as aforesaid in the first place shall put up to sale only that share or those shares of the estate from which, according to the separate accounts, an arrear of revenue may be due.

In all such cases notice of the intention of excluding the share or shares from which no arrear is due shall be given in the advertisement of sale prescribed in section 6 of this Act. The share or shares sold, together with the share or shares excluded from the sale, shall continue to constitute one integral estate, the share or shares sold being charged with the separate portion, or the aggregate of the several separate portions, of jama assigned thereto.

Entire estate

14. If in any case of a sale held according to the provisions of the last

[a] As to fees chargeable on applications under s. 11, see Ben. Act III of 1862, s. 3.
[b] As to opening a separate account under s. 11, see Ben. Act VII of 1876, s. 69.

may be sold under certain conditions.

preceding section the highest offer for the share exposed to sale shall not equal the amount of arrear due thereupon to the date of sale, the Collector or other officer as aforesaid shall stop the sale, and shall declare that the entire estate will be put up to sale for arrears of revenue at a future date, unless the other recorded sharer or sharers, or one or more of them, shall within ten days purchase the share in arrear by paying to Government the whole arrear due from such share.

If such purchase be completed the Collector or other officer as aforesaid shall give such certificate and delivery of possession as are provided for in sections 28 and 29 of this Act to the purchaser or purchasers, who shall have the same rights as if the share had been purchased by him or them at the sale.

If no such purchase be made within ten days as aforesaid, the entire estate shall be sold, after notification for such period and publication in such manner as is prescribed in section 6 of this Act.

Deposit for protection of estate from sale.

15.[a] If any recorded proprietor or co-partner of an estate shall deposit with the Collector money, or Government securities endorsed and made payable to the order of the Collector, and shall sign an agreement pledging the same to Government by way of security for the jama of the entire estate, and authorizing the Collector to apply to the payment of any arrear of revenue that may become due from that estate the whole or any portion of the said money or securities that may be necessary for that purpose, then in the case of any arrear of revenue due from the said estate not being paid before sunset of the latest day of payment fixed under section 3 of this Act the Collector shall apply to the payment of such arrear the said money or securities, or such part thereof or of any interest due on the said securities, as may be necessary; and for this purpose the Collector shall first apply any money that may be in his hands and any interest that may be due upon such securities, and may then sell and transfer the securities for any balance that may remain.

And so long as any money or securities as aforesaid, sufficient to cover any arrear that may fall due, shall remain and be available as aforesaid, the estate for the protection of which the said deposit was made shall be exempted from sale for arrears of revenue.

All moneys and securities so deposited shall be exempt from attachment otherwise than in execution of a decree of a Civil Court.

Withdrawal of deposit.

16.[a] It shall be competent to the person making a deposit under the provision of the last preceding section, or his representative or assignee, at any time, to withdraw the deposit and to revoke the pledge of the same.

[a] As to fees chargeable on applications under ss. 15 and 16, see Ben. Act III of 1862, s. 3.

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Estates under attachment.

17.[a] No estate held under attachment by the Revenue-authorities otherwise than by order of a judicial authority shall be liable to sale for arrears accruing whilst it was so held under attachment.

And no estate held under attachment or managed by a Revenue-officer, in pursuance of an order of a judicial authority, shall be liable to sale for the recovery of arrears of revenue accruing during the period of such attachment or management, until after the end of the year in which such arrears accrued.

Power to exempt from sale.

18. It shall be competent to the Collector or other officer as aforesaid, at any time before the sale of an estate or share of an estate shall have commenced, to exempt such estate or share from sale; and in like manner it shall be competent to the Commissioner of Revenue, at any time before the sale of an estate or share of an estate shall have commenced, to exempt such estate or share from sale, by a special order to the Collector or other officer as aforesaid to that effect in each case; and no such sale shall be legal if held after the receipt of such order of exemption:

Proviso.

Provided, however, and it is hereby enacted, that the Collector or other officer as aforesaid, or the Commissioner, shall duly record in a proceeding the reason for granting such exemption; and provided also that an order for exemption so issued by the Commissioner shall not affect the legality of a sale which may have taken place before the receipt by the Collector or other officer as aforesaid of the order of exemption.

Sales where to be made.

19. Sales shall ordinarily be made by the Collector or other officer as aforesaid in the land-revenue office at the sadr station of the district:

Provided, however, that it shall be competent to the Board of Revenue to prescribe a place for holding sales other than such office whenever they shall consider it beneficial to the parties concerned.

Adjournment of sales.

20. In case the Collector or other officer as aforesaid shall be unable, from sickness, from the occurrence of a holiday or from any other cause, to commence the sale on the day of sale fixed as aforesaid, or if, having commenced it, he be unable, from any cause, to complete it, he shall be competent to adjourn it to the next day following, not being Sunday or other close holiday, recording his reasons for such adjournment, forwarding a copy of such record to the Commissioner of Revenue and announcing the adjournment by written proclamation stuck up in his kachahri; and so on, from day to day, until he shall be able to commence upon or to complete the sale; but with the exception of adjournments so made, recorded and reported, each sale shall invariably be made on the day of sale fixed in the manner aforesaid.

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[a] Part of s. 17, repealed by Ben. Act III of 1881, s. 2, has here been omitted.

Order of selling.

21. On the day of sale fixed according to section 6 of this Act, sales shall proceed in regular order; the estate to be sold bearing the lowest number on the tauji or register in use in the Collector's office of the district being put up first, and so on, in regular sequence; and it shall not be lawful for the Collector or other officer as aforesaid to put up any estate out of its regular order by number, except where it may be necessary to do so on default of deposit, as provided in section 22 of this Act.

Deposit on account of purchase-money.

22. The party who shall be declared the purchaser of an estate or share of an estate at any such public sale as aforesaid shall be required to deposit immediately, or as soon after the conclusion of the sale of the estate or share as the Collector or other officer as aforesaid may think necessary, either in cash, Bank of Bengal notes or post-bills, or Government securities, to be valued at the market-rate of the day, duly endorsed, twenty-five per cent. on the amount of his bid; and in default of such deposit the estate or share shall forthwith be put up again and sold.

Full payment of purchase-money.

23. The full amount of purchase-money shall be made good by the purchaser before sunset of the thirtieth day from that on which the sale of the estate or share of an estate bought by him took place, reckoning that day as one of the thirty; or if the thirtieth day be a Sunday or other close holiday, then on the first office day after the thirtieth; and, in default of payment within the prescribed period as aforesaid, the deposit shall be forfeited to Government, the estate or share shall be re-sold, and the defaulting purchaser shall forfeit all claim to the estate or share, or to any part of the sum for which it may subsequently be sold.

And, in the event of the proceeds of the sale which may be eventually consummated being less than the price bid by the defaulting bidder aforesaid, the difference shall be leviable from him by any process authorized for realizing an arrear of public revenue, and such difference shall be taken and considered to be a part of the purchase-money, and shall be dealt with in the manner hereinafter prescribed for the disposal thereof.

Re-sale.

24. When default is made in the payment of purchase-money, a notification of the intended re-sale shall be published for the period and in the manner prescribed in section 6 of this Act, but such notification shall not be published until the expiration of three clear days after the day on which the default shall have occurred; and if the payment or tender of payment of the arrear on account of which the estate or share was first sold, and of any arrear which may have subsequently become due, shall be made by or on behalf of the proprietor of the estate or share before sunset of the third day, the issue of the

notification of re-sale shall be stayed. The rules contained in the last preceding section shall be applicable to every such re-sale:

Provided that, if default of payment of purchase-money shall occur more than once, the amount to be recovered from the defaulting bidders shall be the difference between the highest bid and the proceeds of the sale eventually consummated, which amount may be levied in manner aforesaid from any of the defaulting bidders to the extent of the amount by which his bid exceeds the amount realized.

25. [*Appeals.*] *Rep. by Ben. Act VII of 1868, s. 29.*

Annulment of sale in special cases.

26. It shall be competent to the Commissioner of Revenue, on the ground of hardship or injustice, to suspend the passing of final orders in any case of appeal from a sale, and to represent the case to the Board of Revenue, who, if they see cause, may recommend to the Local Government to annul the sale; and the Local Government in any such case may annul the sale and cause the estate or share of an estate to be restored to the proprietor on such conditions as may appear equitable and proper.

Sales when final.

27. All sales of which the purchase-money has been paid up as prescribed in section 23 of this Act, and against which no appeal shall have been preferred, shall be final and conclusive at noon of the sixtieth [a]day from the day of sale, reckoning the said day of sale as the first of the said sixty[a] days.

And sales against which an appeal may have been preferred and dismissed by the Commissioner shall be final and conclusive from the date of such dismissal, if more than sixty [a]days from the day of sale, or if less, then at noon of the sixtieth[a] day as above provided.

Certificate of sale.

28. Immediately upon a sale becoming final and conclusive, the Collector or other officer as aforesaid shall give to the purchaser a certificate of title in the form prescribed in Schedule A annexed to this Act. And the said certificate shall be deemed in any Court of Justice sufficient evidence of the title to the estate or share of an estate sold being vested in the person or persons named from the date specified; and the Collector shall also notify such transfer by written proclamation in his own office, and in the Courts of the Munsifs and police-thánás within whose jurisdictions any part of the estate or share sold shall be situated.

Delivery of possession.

29. The Collector or other officer as aforesaid shall order delivery of possession of the estate or share purchased to be made by removing any person who may refuse to vacate the same, and by proclamation to the occupants of the property by beat of drum or in such other mode as may be customary, at some

[a-a] These words in s. 27 have been substituted by Ben. Act VII of 1868, s. 4.

convenient place or places; and by affixing a copy of the certificate at the mál-kachahri or in some conspicuous place of the estate or share of an estate purchased.

Liability of purchaser.

30. The party certified as the proprietor of an estate or share of an estate by purchase under this Act shall be answerable for all instalments of the revenue of Government which may fall due after the latest day of payment aforesaid.

Application of purchase-money.

31. The Collector shall apply the purchase-money, first, to the liquidation of all arrears due upon the latest day of payment from the estate or share of an estate sold; and, secondly, to the liquidation of all outstanding demands debited to the estate or share of an estate in the public accounts of the district; holding the residue, if any, in deposit on account of the late recorded proprietor or proprietors of the estate or share of an estate sold, or their heirs or representatives, to be paid to his or their receipt on demand in manner following: to wit, in shares proportioned to their recorded interest in the estate or share of an estate sold, if such distinction of shares were recorded, or if not, then as an aggregate sum to the whole body of proprietors upon their joint receipt.

And, if before payment to the late proprietor or proprietors of any surplus that may remain of the purchase-money, the same be claimed by any creditor in satisfaction of a debt, such surplus shall not be payable to such claimant, nor shall it be withheld from the proprietor, except under precept of a Civil Court.

Notification of annulment of sale.

32. The annulment by a Commissioner or by Government of a sale made under this Act shall be publicly notified by the Collector or other officer as aforesaid, in the same manner as the becoming final and conclusive of sales is required to be notified by section 28 of this Act; and the amount of deposit and balance of purchase-money shall be forthwith returned to the purchaser with interest thereon at the highest rates of the current public securities; which shall be paid by the Government, unless the proprietor shall have become liable for the same under the provisions of section 25 or section 26 of this Act.

Jurisdiction of Civil Courts in suits to annul sales.

33. No sale for arrears of revenue or other demands realizable in the same manner as arrears of revenue are realizable, made after the passing of this Act, shall be annulled by a Court of Justice, except upon the ground of its having been made contrary to the provisions of this Act, and then only on proof that the plaintiff has sustained substantial injury by reason of the irregularity complained of: and no such sale shall be annulled upon such ground, unless such ground shall have been declared and specified in an appeal made to the Com-

The references in s.s. 32 & 33 s. 25 of Act XI of 1859 (which is repealed by Ben. Act VI of 1868) shall apparently be read as if made to Ben. Act VI of 1868, s. 2. See Section 20 of the latter act.

missioner under section 25 of this Act: and no suit to annul a sale made under this Act shall be received by any Court of Justice, unless it shall be instituted within one year from the date of the sale becoming final and conclusive as provided in section 27 of this Act: and no person shall be entitled to contest the legality of a sale after having received any portion of the purchase-money:

Proviso.

Provided, however, that nothing in this Act contained shall be construed to debar any person considering himself wronged by any act or omission connected with a sale under this Act from his remedy in a personal action for damages against the person by whose act or omission he considers himself to have been wronged.

Effects of annulment of sales by decree of Court.

34. If a sale made under this Act be annulled by a final decree of a Civil Court, application for the execution of such decree shall be made within six months after the date thereof; otherwise the party in whose favour such decree was passed shall lose all benefit therefrom.

And no order for restoring such decree-holder to possession shall be passed until any amount of surplus purchase-money that may have been paid away by order of a Civil Court be repaid by him, with interest at the highest rate of the current Government securities.

And, if such party shall neglect to pay any amount so recoverable within six months from the date of such final decree, he shall lose all benefit therefrom.

If sale annulled, purchase-money to be refunded.

35. In the event of a sale being annulled by a final decree of a Court of Justice, and the former proprietor being restored to possession, the purchase-money shall be refunded to the purchaser by Government, together with interest at the highest rate of the current public securities.

Dismissal of suit brought to oust purchaser on ground that purchase was made for another

36. Any suit brought to oust the certified purchaser as aforesaid on the ground that the purchase was made on behalf of another person not the certified purchaser, or on behalf partly of himself and partly of another person, though by agreement the name of the certified purchaser was used, shall be dismissed with costs.

Rights of purchaser of permanently-settled estate sold for its own arrears.

37. The purchaser of an entire estate in the permanently-settled districts of Bengal, Behar and Orissa sold under this Act for the recovery of arrears due on account of the same shall acquire the estate free from all encumbrances which may have been imposed upon it after the time of settlement; and shall be entitled to avoid and annul all under-tenures and forthwith to eject all under-tenants, with the following exceptions:—

First.—Istimrári or mukarrari tenures which have been held at a fixed rent from the time of the permanent settlement;

Secondly.—Tenures existing at the time of settlement which have not been held at a fixed rent:

Provided always that the rents of such tenure shall be liable to enhancement under any law for the time being in force for the enhancement of the rent of such tenures;

Thirdly.—Taluqdári and other similar tenures created since the time of settlement and held immediately of the proprietors of estates and farms for terms of years so held, when such tenures and farms have been duly registered under the provisions of this Act.

Fourthly.—Leases of lands whereon dwelling-houses, manufactories or other permanent buildings have been erected, or whereon gardens, plantations, tanks, wells, canals, places of worship or burning or burying grounds have been made, or wherein mines have been sunk.

And such a purchaser as is aforesaid shall be entitled to proceed in the manner prescribed by any law for the time being in force for the enhancement of the rent of any land coming within the fourth class of exceptions above made, if he can prove the same to have been held at what was originally an unfair rent, and if the same shall not have been held at a fixed rent, equal to the rent of good arable land, for a term exceeding twelve years; but not otherwise:

Proviso.

Provided always that nothing in this section contained shall be construed to entitle any such purchaser as aforesaid to eject any raiyat having a right of occupancy at a fixed rent or at a rent assessable according to fixed rules under the laws in force, or to enhance the rent of any such raiyat otherwise than in the manner prescribed by such laws, or otherwise than the former proprietor, irrespectively of all engagements made since the time of settlement, may have been entitled to do.

Registration of certain tenures and farms.

38. The following rules for the registration of taluqdári and other similar tenures created since the time of settlement, and held immediately of the proprietors of estates, and of farms for terms of years so held, shall be observed.

Common and special registry.

39. There shall be two sets of registers—one for common registry and one for special registry.

Common registry shall secure such tenures and farms against any auction-purchaser at a sale for arrears of revenue except the Government.

Special registry shall secure such tenures and farms against any auction-purchaser at a sale for arrears of revenue including the Government.

Application for registry.

40. The holder of any taluqdári or other similar tenure, such as is described

in section 38 of this Act, desirous of registering it, shall apply by petition to the Collector of the district to which the estate belongs.

The application[a] shall state which description of registry is desired, and shall contain the following particulars so far as the same are ascertainable:—

(1) the pargana or parganas in which the tenure is situated;
(2) the nature of the tenure;
(3) the name or names of the village or villages whereof the land is composed, or wherein it is situated;
(4) the area of the land comprised in the tenure, with its boundaries in complete detail;
(5) the amount of rent payable annually for the tenure, and whether the rent is fixed for a term of years or in perpetuity, and the duties, if any, required to be performed on account of it;
(6) the date of the deed constituting the tenure, or the date when the tenure was created;
(7) the name of the proprietor who created the tenure;
(8) the name of the original holder of the tenure;
(9) the name of the present possessor, and, if he be not the original holder, the mode in which he succeeded to the tenure, whether by inheritance, gift, purchase or otherwise, and whether he holds jointly or solely.

Holders of such farms as are described in the said section may apply in like manner for registry of the same.

The application shall contain such of the foregoing particulars as are applicable to farms.

Procedure on application for common registry.

41. When the application is for common registry, the Collector shall serve a notice on the recorded proprietor or proprietors of the estate in which the tenure or farm is situated, or the authorized agent of such proprietor or proprietors, with a copy of the application annexed; and shall cause a notice, with a copy of the application annexed, to be affixed in his office, and at the mál-kachahri of the estate in which the tenure or farm is situated, or in such other place or places as in the opinion of the Collector may be best suited to give publicity to the application, requiring the proprietor or any party interested, within thirty days from the issue of the said notice, to file any objections he may have to the registry of the tenure or farm, or to any statement contained in the application.

[a] As to time limited for applications under s. 40 for registry of tenures, and as to fees chargeable, see Ben. Act III of 1862, ss. 2 and 3.

If within the limited time no objection is made, the Collector shall register the tenure or farm.

If within the limited time an objection is made by any recorded proprietor, or by any party interested not being a proprietor, the Collector shall examine the person so objecting or his authorized agent, and, if it shall appear to him that such person has probable ground of objection, the Collector shall suspend proceedings, and shall refer the parties to the Civil Court; otherwise he shall grant the application.

If the decision of the Civil Court be in favour of the applicant, the Collector, on the presentation of a copy of the final decree, shall register the tenure or farm.

Procedure on application for special registry.

42. When the application is for special registry, the Collector shall serve and issue the notices prescribed in the last preceding section.[a]

If within the limited time no objection is made, the Collector shall cause any enquiry that he may deem necessary for the security of the Government revenue to be made; and, if he is satisfied that the Government revenue of the parent estate is sufficiently secured so far as it may be affected by the tenure or farm in question, he shall report the case to the Commissioner, who, if also satisfied on that point, shall direct the tenure or farm to be registered according to the application; otherwise the application shall be rejected.

If within the limited time any recorded proprietor or any party interested not being a proprietor object to the registry, the Collector shall examine the person so objecting or his authorized agent, and, if it shall appear to him that such person has probable ground of objection, shall suspend proceedings, and shall refer the parties to the Civil Court; otherwise he shall proceed as if no objection had been made.

If the decision of the Civil Court be in favour of the applicant, the Collector, on the presentation of a copy of the final decree, shall proceed as above provided for cases in which no objection is made within the limited time.

Registration of leases of certain lands.

43. [b]Leases of lands of the description specified in the fourth exceptional class in section 37 may be registered, at the option of the holders, in the manner and under the rules hereinbefore provided for the registry of taluqdári and other similar tenures.

Registration of old tenures.

44. [b]Tenures of the first and second exceptional classes in section 37 may be registered at the option of the holders; and when so registered shall be entered only in the special register.

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[a] As to the registration of rent-free tenures in the manner laid down in s. 42, see Ben. Act VIII of 1876, s. 96.

[b] As to time limited for applications under ss. 43 and 44 for registry of tenures, and as to fees chargeable, see Ben. Act III of 1862, ss. 2 and 3.

Application for such registry shall contain the particulars specified in section 40 so far as the same are ascertainable, and notices shall be served and issued in the manner prescribed in section 41.

If within the limited time no objection is made by any recorded proprietor or by any party interested not being a proprietor, the Collector shall make such enquiries as may be necessary to satisfy him as to the validity of the tenure; and, if the result be to satisfy him that the tenure is valid, he shall report the case to the Commissioner, who, if also satisfied that the tenure is valid, shall direct it to be entered in the special register; otherwise the application for registry shall be rejected.

If within the limited time any recorded proprietor or other party as aforesaid object to the registry of the tenure, the Collector shall examine the person so objecting or his authorized agent, and, if it shall appear to him that such person has probable ground of objection, shall suspend proceedings and refer the parties to the Civil Court; otherwise he shall proceed as if no objection had been made.

If the decision of the Civil Court be in favour of the applicant, the Collector, on the presentation of a copy of the final decree, shall proceed as above provided for cases in which no objection is made within the limited time:

Provided always that nothing contained in this section shall be understood as rendering registration necessary for the protection of *bonâ fide* tenures of the description herein referred to. Proviso.

45.—[*Time for application for registry of tenures and farms.*] *Rep. by Ben. Act III of 1862, s. 1.*

46. The actual expenses of any measurement, survey or local enquiry made under sections 42 and 44 of this Act shall be borne by the party who applies for the registry of his tenure or farm; and such party may be required by the Collector from time to time to make such advances on this account as he may consider necessary. Expenses of measurement, survey or local enquiry.

47. No Civil Court shall be competent to order the Revenue-authorities to enter any tenure or farm in the special register: Civil Court not competent to order entry in special register.

Provided always that the refusal of the Revenue-authorities so to register any tenure or farm shall not affect the title of the holder, whatever it may be.

48. Subject to the general law of limitation, any person thinking himself wronged by the registry of a tenure or farm may file a suit for the cancelment of the same. Suit for cancelment of registry of tenure or farm.

49. In the execution of their functions in the registration of tenures and farms under this Act, all subordinate Revenue-authorities shall proceed in accordance with the general instructions which they may receive from the Proceedings of Revenue-authorities in registration of tenures, &c.

superior Revenue-authorities to whom they are subordinate, and from the Local Government; and all orders passed under the sections aforesaid shall be open to appeal in usual course.

The order of a Commissioner for the special registry of a tenure under the provisions of this Act shall be open at any time within one year from the date of registry to revision by the Board of Revenue or the Local Government, on the ground of the Government revenue not having been sufficiently secured, or of the invalidity of the tenure, as the case may be.

Effect of entry in special register.

50. Entry in the special register shall be an effectual protection of the tenure or farm so registered, unless, in a suit instituted by Government in a Civil Court within the period allowed for suits for the recovery of the public revenue, a decree be passed pronouncing the registration to have been obtained by fraud, to the injury of the Government revenue:

Provided that a tenure or farm in the hands of a *bonâ fide* purchaser for value shall not be avoided by reason of such fraud.

But the tenure or farm shall be liable to such amount of rent as would have been fair and equitable at the time of the special registry thereof—such amount to be fixed by the Collector.

Protection of taluqdári tenures pending enquiry, in case of sale of parent estate for arrears of revenue.

51. Tenures and farms of the third exceptional class described in section 37 of this Act, for the special registration of which application shall be made within the prescribed time, and in respect of which the Collector shall have commenced the enquiry prescribed in section 42, shall, in case of the sale of the parent estate for arrears of revenue, be protected pending the duration of such enquiry, and shall be protected eventually by registration, if the final award of the Revenue-authorities upon such application be in favour of the claimant.

Rights of purchaser of estate not permanently settled, sold for its own arrears.

52. The purchaser of an estate in a district not permanently settled, sold under this Act for the recovery of arrears due on account of the same, shall acquire the estate free from all encumbrances which may have been imposed upon it after the time of settlement, and shall be entitled to avoid and annul all tenures which may have originated with the defaulter or his predecessors, being representatives or assignees of the original engager, as well as all agreements with raiyats or the like, settled or accredited by the first engager or his representatives, subsequently to the last settlement, as well as all tenures which the first engager may, under the conditions of his settlement, have been competent to set aside, alter or renew, saving always and except leases of lands whereon dwelling-houses, manufactories or other permanent buildings have been erected, or whereon gardens, plantations, tanks, wells, canals, places of worship or burning or burying grounds have been made, or wherein mines

have been sunk, which leases or engagements shall, so long as the land is duly appropriated to such purposes, and the stipulated rent paid, continue in force and effect:

Provided that nothing contained in this section shall be construed to entitle any purchaser of land at a public sale for arrears of revenue to demand a higher rate of rent from any persons whose tenure or agreement may be annulled as aforesaid, than was demandable by the former proprietor, except in cases in which such persons may have held their lands under engagements, stipulating for a lower rate of rent than would have been justly demandable for the land, or in cases in which it may be proved that, according to the custom of the pargana, mauza or other local division, such persons are liable to be called upon for any new assessment or other demand not interdicted by the Regulations of Government.

Rights of purchaser being sharer in estate;

53. Excepting ~~sharers in estates under batwára who may have saved their shares from sale under sections 33 and 34, Regulation XIX, 1814, and~~ sharers with whom the Collector, under sections 10 and 11 of this Act, has opened separate accounts, any recorded or unrecorded proprietor or co-partner, who may purchase the estate of which he is proprietor or co-partner, or who by re-purchase or otherwise may recover possession of the said estate, after it has been sold for arrears under this Act, and likewise any purchaser of an estate sold for arrears or demands other than those accruing upon itself, shall by such purchase acquire the estate subject to all its encumbrances existing at the time of sale, and shall not acquire any rights in respect to under-tenants or raiyats which were not possessed by the previous proprietor at the time of the sale of the said estate.

and of purchaser of estate not sold for its own arrears.

Rights of purchasers of shares of estate.

54. When a share or shares of an estate may be sold under the provisions of section 13 or section 14, the purchaser shall acquire the share or shares subject to all encumbrances, and shall not acquire any rights which were not possessed by the previous owner or owners.

Recovery of arrears due to defaulters.

55. Arrears of rent which on the latest day of payment may be due to the defaulter from his under-tenants or raiyats shall, in the event of a sale, be recoverable by him after the said latest day, by any process except distraint which might have been used by him for that purpose on or before the said latest day.

Punishment for contempt.

56. Any Collector or other officer as aforesaid conducting a sale under this Act shall be competent to punish any contempt committed in his presence in open kachahri or office for the time being, by fine to an extent not exceeding two hundred rupees, commutable if not paid to imprisonment in the civil jail for a period not exceeding one month; and the Magistrate to whom such

an offender may be sent by a Collector or other officer as aforesaid shall carry his sentence into effect:

Provided that an appeal from any order passed under this section shall lie to the Revenue Commissioner, whose decision shall be final.

Default as to deposit a contempt.

57. A default to make good a bid by making the deposit required by section 22 of this Act shall be held to be a contempt.

Government may purchase at sale.

58. When an estate is put up for sale under this Act for the recovery of arrears of revenue due thereon, if there be no bid, the Collector or other officer as aforesaid may purchase the estate on account of the Government for one rupee, or, if the highest bid be insufficient to cover the said arrears and those subsequently accruing up to the date of sale, the Collector or other officer as aforesaid may take or purchase the estate on account of the Government at the highest amount bid; in both which cases the Government shall acquire the property subject to the provisions of this Act.

59. [*Fees and charges demandable by Collector.*] *Rep. by Ben. Act III of 1862, s. 1.*

Regulations VII, 1822, and IX, 1825, in force in certain estates.

60. The provisions of Regulation VII, 1822, and Regulation IX, 1825, shall be in force in every estate in any part of which a measurement, survey, or local enquiry may be made under this Act, and in every estate purchased or taken on account of Government under this Act.

Interpretation.

61. In the construction of this Act the word "Collector" shall include a Deputy Collector or other officer exercising, by the authority of Government, the powers of a Collector or Deputy Collector.

Application of Act.

62. The operation of this Act shall be confined to such parts of the Lower Provinces in the Presidency of Fort William in Bengal as are or shall be subject to the general Regulations of that Presidency.

SCHEDULE A.

I certify that *A. B.* has purchased, under Act No. XI of 1859, the mahál [*or* share of a mahál] specified below, standing in the tauji of the district of and that his purchase took effect on the day of [*being the day after that fixed for last day of payment*].

(Signed) *D. R.*,
Collector.

SPECIFICATION.

(If of an entire mahál.)

Tauji number
Name of mahál
Name of the former proprietor
Sadr jama

(If of a share of a mahál.)

Tauji number of the entire mahál
Name of the entire mahál
Sadr jama of the entire mahál
Description of the share sold
Subordinate tauji number of the share sold
Name of the former proprietor of the share sold
Sadr jama for which the share sold is separately liable

SCHEDULE B.

Fees.

For filing an application under section 10 or section 11 for opening separate account for a share of an entire estate—

If the annual jama of the share do not exceed two hundred and fifty rupees—25.

If the annual jama of the share exceed two hundred and fifty rupees and do not exceed one thousand rupees—at the rate of ten per cent. upon the jama.

If the annual jama of the share exceed one thousand rupees—at the rate of ten per cent. upon one thousand rupees and two per cent. upon all above that amount.

For filing an application for a deposit of money or Government securities under section 15—half per cent. on the amount deposited.

For any interest on Government securities so deposited drawn by the Collector—half per cent. of the amount drawn.

For filing an application for withdrawal of a deposit under section 16—half per cent. of the amount withdrawn.

For filing an application under section 40, 43 or 44 for the registration of an under-tenure or farm—

If the annual rent of the under-tenure do not exceed five hundred rupees—25.

If the annual rent of the under-tenure exceed five hundred rupees and do not exceed one thousand rupees—at the rate of five per cent. upon the rent.

If the annual rent of the under-tenure exceed one thousand rupees—at the above rate up to one thousand rupees, and at one per cent. upon all above that amount.

ACT No. XII OF 1859.

Received the Governor General's assent on the 4th May, 1859.

An Act to make better provision for the trial of pilots at the Presidency of Fort William in Bengal for breach of duty.

Preamble.

WHEREAS it is expedient to amend the law for the trial of persons employed in the Pilot Service of Government at the Presidency of Fort William in Bengal, when accused of breach of duty, and to extend the same to persons licensed to act as pilots at the said Presidency; It is enacted as follows:—

1. [*Repeal of Acts XXIV of 1845 and I of 1851.*] *Rep. by Act XIV of 1870, s. 1.*

Trial of pilots accused of breach of duty.

2. When any person employed in the Pilot Service of Government at the Presidency of Fort William in Bengal, or licensed to act as a pilot at the said Presidency, shall be accused of having committed any breach of duty while engaged in such service or acting under such license, and it shall appear to the Superintendent of Marine, or to the Lieutenant-Governor of Bengal, that such person ought to be brought to trial for such breach of duty, such person shall be brought to trial upon a charge or charges framed by the said Superintendent of Marine, or such other person as the said Lieutenant-Governor shall direct, before a Court constituted under the provisions of this Act.

Appointment of Judge.

3. The Lieutenant-Governor of Bengal shall appoint a fit person to be Judge of the said Court.

Appointment of prosecutor.

4. The Lieutenant-Governor shall appoint such person as he may think proper to conduct the proceedings before the Court as prosecutor on the part of Government.

Trial to be held before Judge and jury.

5. Every trial under this Act shall be held before the said Judge and a jury composed of two merchants of Calcutta, a master of a merchant-ship lying in the Port of Calcutta, and a pilot of not less than twenty years' service.

Lists of merchants and pilots liable to serve on jury.

6. The Judge shall cause to be prepared and shall keep two separate lists, one containing the names of merchants, the other containing the names of pilots, liable to serve on such jury.

The names in each list shall be arranged in alphabetical order, and the place of abode and quality or business of each person named shall be stated.

Notice to prosecutor and accused of time and place for appointing jury.

7. When the Judge shall be about to hold a trial under this Act, he shall give notice to the prosecutor and to the party accused of a time and place to be fixed by the Judge for appointing a jury to serve at such trial.

Appointment of jury.

8. At the time and place mentioned in the notice, the Judge in the pre-

sence of the prosecutor and the person accused shall read over the names which first occur in each of the said lists of those merchants and pilots who he has reason to believe are present in Calcutta and capable of attending as jurors at the trial; and shall also propose the name of a master of a merchant-ship lying in the Port of Calcutta whom he deems qualified to serve on such jury.

If no objection be made and allowed, the persons so nominated shall be the jury to serve at the trial.

If the prosecutor or the party accused shall object to any of the persons named as jurors, he shall assign the grounds of his objection, and such objection shall forthwith be decided by the Judge.

If the objection be allowed, the Judge shall read from the said lists or propose (as the case may be) another name in the place of the one objected to, and the person so nominated shall serve on the jury, provided no objection to such person be made and allowed as aforesaid.

Day of trial to be fixed and summons to issue to jurors.

9. When a jury has been appointed under the last preceding section, the Judge shall fix a day for the trial and shall summon by writing under his hand the persons so appointed to sit as a jury.

Penalty for non-attendance.

If any such person when duly summoned shall, without such excuse as the Judge shall allow to be sufficient, neglect or refuse to attend at the time appointed or to remain in attendance until the trial shall be completed, it shall be lawful for the said Judge to impose upon any such person a fine not exceeding two hundred rupees for every such default; and such fine, if not paid, shall be levied by distress and sale of the goods and chattels of the defaulter under a warrant to be issued for that purpose by the Judge.

Such warrant may be transmitted by the Judge to any Magistrate of police for the town of Calcutta, and thereupon such Magistrate shall endorse the same and shall cause it to be executed in the same manner as if the warrant had been issued by such Magistrate.

Trial how to proceed if any juror does not attend.

10. If for any cause any of the persons summoned to attend as jurors shall not be in attendance at the time fixed for the commencement of the trial, the trial may with the consent of the prosecutor and the party accused be held before the Judge and such jurors as shall be in attendance.

If such consent be not given, the place of the absent juror shall be supplied by some other person selected by the Judge from the same profession or calling as the person originally summoned and who shall consent to serve, provided no objection to such person be made and allowed in manner aforesaid.

If the parties or either of them do not consent that the trial shall be held before the Judge and such jurors as may be in attendance and the place of the

absent juror cannot be supplied by a person consenting to serve, the trial shall be postponed to another day and the Judge shall either re-summon the same jury or appoint and summon another jury in the manner hereinbefore provided.

Register of jurors who have served.

11. The Judge shall register in a book the names of all jurors mentioned in either of the said two lists who have attended and served on a trial held under this Act.

A juror who has served shall not be required again to serve and his name shall be excluded in reading over the jury-lists until all the persons named in the said lists who are present in Calcutta and capable of attending as jurors shall have served.

12. [*Jurors to be sworn.*] *Rep. by Act X of 1873, s. 2.*

Judge may summon witnesses to attend at certain time and place.

13. It shall be lawful for the Judge of the said Court, at the instance of the prosecutor or of the party accused, or of his own motion, by writing under his hand, to summon any person to attend as a witness at a time and place to be specified in the summons, for the purpose of being examined at any trial before the said Court; or if such person shall be about to depart from Calcutta, so as to be unable to attend at such trial without serious inconvenience, then to be examined before the Judge of the said Court before the day fixed for the trial:

Examination of witnesses about to leave Calcutta.

Provided always that due notice of the time and place of such examination shall be given to the accused party; provided also that such witness may nevertheless be examined at the trial if he shall be able to attend thereat, in which case his previous examination may also be read at the trial.

Penalty for witnesses not attending or refusing to give evidence.

14. If any person who shall have been duly summoned to attend as a witness shall, without sufficient excuse, neglect or refuse to attend, or attending shall refuse to give evidence or to answer any question which may be lawfully put to him, such person shall forfeit and pay such fine, not exceeding five hundred rupees, as the Judge of the said Court shall order; and such fine, if not paid, shall be levied by distress and sale of the goods and chattels of the person ordered to pay the same in the manner prescribed in section 9 of this Act.

15.[a] (*1*) Whenever the Judge of the said Court thinks it necessary for obtaining evidence that any person should be arrested, he may issue a warrant for his arrest, and may, for the purpose of effecting the arrest, authorise any officer (subject, nevertheless, to any general or special instructions from the Local Government) to enter any vessel.

(*2*) Any officer so authorised may, for the purpose of enforcing the entry,

[a] S. 15 has been added by Act VI of 1863, s. 1; the original s. 15 was repealed by Act X of 1873, s. 2.

call to his aid any officers of Police or Customs, or any other persons, and may seize and detain the vessel for such time as is reasonably necessary to effect the arrest; and every such officer or other person shall be deemed to be a public servant within the meaning of the Indian Penal Code, section 186.

XLV of 1860.

(*3*) No person shall be detained under this section for more than forty-eight hours.

Verdict of jurors.

16. Upon the completion of the trial, the jurors shall give their verdict upon the charge, or, if there be more than one, upon each separate charge.

The verdict shall be according to the opinion of the majority of jurors. If the jurors are equally divided, the Judge shall declare his opinion, and the verdict shall be according to the opinion of the Judge and the jurors with whom he concurs.

Sentence if accused found guilty.

17. If by such verdict the accused person is found guilty of the charge or of any one or more of the charges preferred against him, the Judge of the Court shall sentence him to be dismissed from the said Pilot-service, or to have his license withdrawn, or shall award such other punishment, by loss of rank or pay, or by change of a license from a higher to a lower grade, or suspension from employment for a specified period, as to the Judge shall appear fit.

Preparation of schedule of offences and punishments.

The Lieutenant-Governor of Bengal, with the sanction of the Governor General in Council, may prepare a schedule of offences and punishments (such punishments being of the same nature as those hereinbefore mentioned) for the guidance of the said Court; and, if such schedule be prepared and sanctioned, and the charge proved before the said Court is an offence specified in such schedule, the Judge of the said Court shall award such punishment as is prescribed for such offence in the said schedule, and no other.[a]

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[a] SCHEDULE OF OFFENCES AND PUNISHMENTS PREPARED IN ACCORDANCE WITH SECTION 17.

Offences through Unskilfulness, Neglect, &c., when in Pilotage-charge.

1. Any pilot who, when in pilotage-charge of any vessel, shall, through unskilfulness, negligence or other default allow such vessel to ground, or cause injury, by collision or otherwise, to the vessel in his charge or to any other vessel, shall be punished by suspension or reduction of pay for a term not exceeding twelve months, or by a reduction either in steps or grade.

2. If in any case the loss of any vessel is the consequence of any of the offences above described, the pilot shall also be liable to dismissal.

3. Any pilot who shall unnecessarily cut or slip, or cause to be cut or slipped, any cable belonging to any vessel under his pilotage-charge, shall be punished by suspension or reduction of pay for a term which may extend to three months.

4. Any pilot who shall either through unskilfulness, neglect or other default cause damage to any floating light-vessel, buoy or beacon shall be punished by suspension or reduction of pay for a term which may extend to three months, and shall also be liable to make good the damage caused.

5. Any pilot who shall be asleep when in pilotage-charge of any vessel under weigh, or who shall fail to attend, whether by day or by night, to the swinging of the vessel of which he may be in pilotage-charge, shall be punished with suspension or reduction of pay for a term not exceeding six months.

6. Any pilot who shall be drunk when in pilotage-charge of any vessel shall be punished by dismissal.

Acquittal.

If by such verdict as aforesaid the accused person is found not guilty of the charge or charges preferred against him, the Judge shall declare him acquitted of the same.

No sentence final till approved by Government.

18. The proceedings of the Court shall be sent by the Judge to the Superintendent of Marine for submission to the Lieutenant-Governor of Bengal; and no sentence of punishment pronounced by the Judge of the said Court shall be final until it has been approved of by the said Lieutenant-Governor.

Government may remit sentence or mitigate punishment.

The said Lieutenant-Governor may remit the whole or any part of such sentence, or may direct the substitution of any mitigated punishment in lieu of the punishment awarded by the said Court as he shall think fit.

If verdict of jurors be manifestly

19. If it shall appear to the Judge of the said Court that the verdict of the jurors is manifestly contrary to the evidence, or that the trial is other-

Offences against Discipline or Departmental Rules.

7. Any pilot who shall refuse to take pilotage-charge of a vessel when ordered to do so by competent authority, or who shall improperly throw up pilotage-charge of any vessel, or who shall quit the vessel of which he is in pilotage-charge without the consent of the master or commanding officer, before the service for which he was engaged has been performed, shall be punished with suspension or reduction of pay for a period which may extend to twelve months, or by dismissal

8. Any pilot who shall be drunk on board a pilot-vessel, or when on general duty (otherwise than in pilotage charge), shall be punished with suspension or reduction of pay for a term which may extend to twelve months; and for any repetition of the offence shall be liable to dismissal.

9. Any pilot who shall be guilty of disobedience of orders shall be punished with suspension or reduction of pay for a term which may extend to twelve months, or by reduction in steps or grade, or by dismissal.

10. Any pilot who shall be found guilty of insubordination or disrespect to a superior officer, shall be punished with suspension or reduction of pay for a term which may extend to six months.

11. Any pilot who shall assault his superior officer when on duty may be punished, in addition to any penalty to which he may be liable under the Penal Code, by dismissal, or by suspension or reduction of pay for a term not exceeding twelve months, or by reduction of grade

12. Any pilot who shall, when in command of a pilot-vessel, neglect to attend to the proper maintenance, discipline or navigation of such vessel, or any pilot who shall wilfully waste, destroy or misapply public stores and property, shall be punished with suspension or reduction of pay for a term which may extend to twelve months, or by dismissal.

13. Any pilot who shall be guilty of any breach of rules duly promulgated by proper authority for his guidance as a pilot, and the punishment for which is not already laid down in this schedule, shall be punished with suspension or ~~deduction~~ of pay for a term not exceeding twelve months, or by reduction in steps or grade, or by dismissal.

Offences containing an Element of moral Turpitude.

14. Any pilot who shall wilfully make a false report of the circumstances attending the grounding, collision, injuring or loss of any vessel, or of the stores of any vessel, or on any point connected with his duty as a pilot, or who shall make or cause to be made a false muster-roll, or a false entry in the log-book of any pilot-vessel, or who shall wilfully neglect to make the proper entries in the log-book of such vessel when he is in duty bound to make them, shall be punished with suspension for a term not exceeding twelve months, or by dismissal.

15. Any pilot who shall commit, or connive at, any fraud, or offence against the laws relating to Customs or Excise, or who shall knowingly connive at the escape of any person against whom there has issued a warrant of arrest, shall be punished with suspension for a term not exceeding twelve months, or by dismissal.

N.B.—Reduction of pay is never to exceed one-half of the monthly salary or earnings.

The reduction of pay of an officer of the pilot service when undergoing any of the punishments for which reduction of pay is inflicted under this Schedule shall be the half of his earnings for the period for which he is punished.

[* *This last para. has been substituted—see Government of Bengal, General (Marine) Department letter No. 6316, dated 14th December, 1878.*]

wise insufficient, the Judge, instead of passing sentence on the accused person or declaring him acquitted, as the case may be, may certify the same to the Lieutenant-Governor of Bengal, and the said Lieutenant-Governor may either order a new trial before another jury or acquit the accused person, as he shall think fit.

contrary to evidence or trial otherwise insufficient.

20.[a] It shall be lawful for the Lieutenant-Governor of Bengal to make such rules as he shall think proper, not inconsistent with the provisions of this Act, for conducting the proceedings and regulating the practice of the said Court.

Power to make rules.

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[a] RULES FOR THE COURT FOR THE TRIAL OF PILOTS MADE UNDER SECTION 20.

[See letter No. 663, dated 24th November, 1860, from the Government of Bengal to the Superintendent of Marine.]

Rule 1.—Whenever it shall appear to the Lieutenant-Governor or the Superintendent of Marine that any person employed in the pilot service of Government or any licensed pilot ought to be brought to trial under the provisions of the abovementioned Act, the Superintendent of Marine shall frame the charge or charges upon which such pilot is to be tried, and transmit a copy of the same to the Judge of the Court, who shall thereupon issue a notice, of not less than one day's duration in the Form No. 1 appended, calling upon the prosecutor on behalf of Government under the said Act and the party accused to attend on him at a place and time appointed, for the purpose of appointing a jury under the 7th and 8th sections of the said Act.

Rule 2.—At the time and place appointed in the said notice, the Judge shall deliver to the prosecutor a copy of the charge or charges, and the accused shall be entitled to receive a copy thereof from the prosecutor on application.

Rule 3.—The jury having been appointed under the provisions of section 8 of the Act, the Judge shall, by a summons under his hand in Form No. 2, summon them to appear at a time and place to be fixed by him for the trial, and shall by a summons in the Form No. 3 summon the accused to attend such trial; the time for such trial not being earlier than two days after the service of such summons. The summonses respectively shall be served either personally or by leaving the same at the place of business or of last-known abode of the parties respectively.

Rule 4.—The course of proceedings at the trial shall be as follows or as near thereto as conveniently may be:—

The jury shall be sworn in like manner as in the ordinary Courts of law.

The charge or charges shall then be read by the prosecutor. The defendant shall not be required to plead to such charge or charges, but the evidence shall be taken on the subject thereof, as though he had pleaded not guilty. The prosecutor shall then call the witnesses for the prosecution, who may be cross-examined by the accused, and re-examined and examined by the Judge and jury, according to the course and practice of the Supreme Court. The case for the prosecution having been closed, the accused shall be called upon for his defence. If not ready, the Judge may at his discretion grant the accused an extension of time or postponement, as the case may be. The accused in his defence may call witnesses on his part and address the Court either orally or in writing, and either before or after the examination of his witnesses. The prosecutor shall be entitled to cross-examine every witness for the defence, and the accused to re-examine such witness. At the close of the case for the accused, the prosecutor may address the Court in reply, if witnesses shall have been called by the accused in support of his statement; but not otherwise, unless by special permission of the Judge. The jury shall forthwith at the close of the case consider and deliver their verdict. Subject to section 19 of the said Act, the Judge may either pass sentence immediately or reserve his sentence, which sentence he may afterwards pass subsequently to the discharge of the jury.

Rule 5.—The forms for swearing the jury and the witnesses shall be as near those in use in the Supreme Court as may be.

Rule 6.—The Judge shall be at liberty to adjourn the Court for any specified object to such times and places, and from time to time, as he shall think necessary or expedient; and shall notify every such adjournment verbally to the jury, the prosecutor and the accused and any witnesses who shall be at such time in attendance, all of which several persons shall thereupon attend at every such adjourned time and place as though they had been specially summoned thereto.

Rule 7.—The summons to witnesses shall be in the Form No. 4 or as near thereto as may be, and the same shall be served personally in all cases if practicable, and if not, shall be left at the place of business or abode of the party to whom it shall be addressed, or on board the ship to which he belongs with any person on duty on board; and the Judge shall, on the application of either the

Marine authorities or Government may pass orders upon charge of breach of duty where trial unnecessary.

21. Nothing contained in this Act shall be held to restrict the marine authorities of the Government from passing such orders as may be deemed proper upon any charge of breach of duty preferred against any person employed in the said Pilot-service, when it shall not be deemed necessary that such person should be brought to trial for such breach of duty under the provisions of this Act.

Withdrawal of license from licensed pilot.

22. If any person licensed to act as a pilot when duly charged with breach of duty as aforesaid shall refuse to submit himself to trial under the

prosecutor or the accused before the trial (or during the same if he shall see fit), sign and issue summonses for such witnesses as they may respectively require, which summonses shall be served in the manner above required by the prosecutor or the accused, as the case may be.

Rule 8.—In case it shall be made to appear to the Judge on an application by either the prosecutor or the accused that any material and necessary witness on any charge is about to leave the port of Calcutta, he shall issue to the parties so applying to him a summons for the attendance of such witness at some place and at the earliest reasonable time to be fixed in the summons, and the Judge shall thereupon immediately issue and send to the address of the other of such parties a notice in the Form No. 5 inviting his attendance at any such time and place on the occasion of the examination of any such witness to cross-examine him. In case of the non-attendance of such party after such notice, the Judge shall, on its being made to appear satisfactorily to him that such notice has reached the place of business or abode of such party, proceed with such examination without his attendance.

Rule 9.—The accused shall be allowed the assistance of a friend or professional adviser in the conduct of his defence, and such friend or professional adviser may, with the consent of the Judge, address the Court on the trial in lieu of the accused, provided the latter be present. But the Judge shall not recognize any written application relative to the trial or other proceedings except directly from the accused himself, and in no trial or other proceedings in which the accused himself is absent shall the agency of such friend or professional adviser be admitted or recognized, unless in the case of illness of the accused supported by medical certificate, when, on a written request by him to the Judge authorizing the appearance of any person on his behalf, the proceedings may be carried on in the presence of such person as though the accused were himself present.

Rule 10.—In cases of collision, where the pilots of both colliding vessels are brought to trial, there shall be one trial for both or a separate trial for each, according as the Judge in his discretion may determine

Rule 11.—In case the accused shall not appear at the trial, and shall not satisfy the Judge that he has a reasonable cause for not appearing, the Court shall be at liberty to proceed in his absence to hear and determine the charge preferred against him; and the Judge may pass sentence thereon in such and the same manner as he might have done in case the accused had appeared and been arraigned in person on the said charge:

Provided that, in case the accused shall present himself before the conclusion of the trial, he shall be at liberty to cross-examine such witnesses as still remain to be examined on the part of the prosecution, and to make his defence to the charge or charges preferred against him in the usual manner, but shall not be at liberty, except by leave of the Judge, to reopen any of the proceedings which shall have taken place in his absence.

Rule 12.—Any application on behalf of a person summoned on a jury or as a witness or a defendant on any trial, and seeking to be excused attendance on the ground of illness, must be supported by a medical certificate addressed to the Judge of the Court at the earliest opportunity.

Rule 13.[a]—It shall be optional with the Judge to deliver a formal charge to the Jury, but, if he do deliver such charge, he shall record it and forward the same to Government with the record of the case. If no formal charge is delivered, the Judge shall sum up the facts of the case and analyse the evidence bearing on them in a written judgment, which shall form part of the record for submission to Government. When the Judge differs from the Jury, the grounds for his opinion must be fully and clearly stated. The Jury or the Judge shall be at liberty to have recorded on the proceedings such remarks connected with, or arising out of, the case as they may desire to bring to the notice of the authorities.

Rule 14.—Questions of law or procedure not herein specially provided for shall be determined so far as is practicable and reasonable in accordance with the rules of the Supreme Court in regard to similar or analogous matters.

[a *Rule 13 has been substituted by Government of Bengal, General (Marine) Department, Resolution, dated 10th December, 1878.*]

provisions of this Act, the license of such person shall be withdrawn, and he shall be incapable of being again licensed to act as a pilot at the said Presidency.

Act applicable to persons in Pilot-service and to licensed pilots.

23. The provisions of this Act shall extend to all persons employed in the Pilot-service at the said Presidency and borne on the rolls of the Government establishment, whether such persons receive fixed salaries, or are remunerated by a portion of the pilotage charged on the vessels piloted by them, or in any other manner, and to all persons licensed to act as pilots at the said Presidency.

ACT No. XXII OF 1860.[a]

Received the Governor General's assent on the 21st May, 1860.

An Act to remove certain tracts on the eastern border of the Chittagong District from the jurisdiction of the tribunals established under the general Regulations and Acts.

Preamble.

WHEREAS it is expedient to remove the hilly and forest tracts of country situated on the eastern border of the district of Chittagong from the jurisdiction exercised by the Civil, Criminal and Revenue Courts and offices of that district, under the General Regulations and Acts of the Government; It is enacted as follows:—

Certain tracts removed from operation of General Regulations and Acts.

1. The tracts of country described in the schedule to this Act are hereby removed from the jurisdiction of the Courts of Civil and Criminal Judicature, and from the control of the officers of revenue constituted by the Regulations of the Bengal Code and the Acts passed by the Governor General of India in Council and the Legislative Council of India, as well as from the system of procedure prescribed for the said Courts and offices by the Regulations and Acts aforesaid; and no Act hereafter passed by the Legislative Council of India relative to the constitution or procedure of the said Courts and offices shall be deemed to extend to any part of the said tract, unless the same be specially named therein:

Proviso.

~~Provided that nothing herein contained shall extend to or affect any case now pending in any Court or office.~~

Administration of justice and collection of revenue vested in officers subject to

2.[b] The administration of civil and criminal justice and the superintendence of the settlement and realization of the public revenue and of all matters relating to rent within the said tracts are hereby vested in such officer or officers as the Lieutenant-Governor of Bengal may for the purpose of tribunals of first

[a] This Act will be repealed by the Scheduled Districts Act, 1874, when that Act is brought into force in the Hill Tracts of Chittagong—see Act XIV of 1874, s. 2 ~~and Sch. II.~~

[b] For rules as to appeals and for the administration of justice and the collection of revenue, see letters Nos. 3300 and 3301, dated 20th June, 1860, from the Secretary to the Government of Bengal to the Superintendent of the Chittagong Hill Tracts and the Officiating Commissioner of the Chittagong Division, respectively.

control of Lieutenant-Governor of Bengal.

instance or of reference and appeal appoint, and the officer or officers so appointed shall, in the matter of the administration and superintendence aforesaid, be subject to the direction and control of the Lieutenant-Governor of Bengal, and be guided by such instructions as the Lieutenant-Governor of Bengal may from time to time issue.

Appeals.

3. It shall be lawful for the Lieutenant-Governor of Bengal to direct that an appeal may be heard in any of the matters described in the last preceding section by the Civil and Sessions Judge of Chittagong or the Commissioner of Revenue for that district, or by the Sadr Diwáni and Nizámat Adálat or by the Board of Revenue, and to declare in what cases the order made by any officer or Court empowered by the Lieutenant-Governor to dispose of any of the matters aforesaid shall be final.

Reference to Sadr Court.

4. It shall be lawful to the Lieutenant-Governor of Bengal to direct any officer empowered to administer criminal jurisdiction in or for the tracts aforesaid to refer the sentence passed by him in any class of criminal trials or the confirmation of the Sadr Court; and no sentence of death passed by any person competent under the direction of the Lieutenant-Governor to pass such sentence shall be carried into execution until it be confirmed by the Sadr Court. In disposing of any trial referred for disposal under this section the Sadr Court shall not call for the fatwá of its law-officer, and shall pass such order as it may deem just and proper, so as that it shall not convict any person acquitted by the referring officer, or enhance any sentence pronounced by him.

Place of imprisonment or transportation.

5. Any person liable to be imprisoned in any civil or criminal jail or to be transported beyond sea under any order or sentence passed by any officer or Court empowered as provided in this Act may be imprisoned in any civil or criminal jail or transported to any place which the Lieutenant-Governor of Bengal may direct.

Questions of disputed boundary to be determined by Commissioner.

6. When a question shall arise whether any place falls within the tracts described in the schedule of this Act, it shall be competent to the Commissioner of Revenue for the district of Chittagong to consider and determine on which side of the described boundary the place aforesaid may lie, and the order made by the Commissioner shall be final.

7. [*Commencement of Act.*] *Rep. by Act XVI of 1874, s. 1.*

SCHEDULE.[a]

The boundary of the tracts referred to in this Act, and to which the provisions of Act XXII of 1860 shall be applicable, shall be understood generally

[a] This Schedule has been substituted by Ben. Act IV of 1863, s. 1.

to run to the eastward of the surveyed area of the villages situated on the eastern frontier of the Chittagong district, as surveyed and mapped in the course of the revenue-survey of that district, and shall be more particularly taken to be indicated as follows :—

As respects thána Fatikchari, all the country lying east of the villages Rámgarh, Júzkola, Hápaniyá, Fakiráchang, Kanchanpur and Gumáritalá.

As respects thána Háthazári, all the country lying east of Magkatta, Rádhámádhabpur, and other surveyed villages of this thána, and of a line drawn from the south-eastern boundary to Gográ in phári Ranganiyá.

As respects phári Ranganiyá, all the country lying to the east of Gográ, Nichintápur, Kodálá, Paduá, Dúdh-Pukuriyá and other surveyed villages of this phári, situated on both sides of the Karnaphúli river.

As respects thána Patiyá, all the country lying east of the surveyed villages of this thána, that is to say, lying east of a line drawn from the eastern surveyed boundary of Dúdh-Pukuriyá in phári Ranganiyá, drawn to the eastern surveyed boundary of the village Dúbáchari lying north of the river Shankhá.

As respects thána Satkaniyá, all the country lying east of Púrangarh, Bardwárá, Andár Manik, Rájbári and other surveyed villages of this thána.

As respects thána Chakariyá, all the country lying eastward of a line drawn from the village Rájbári in thána Tulkaniyá to the surveyed villages Bunú and Bilchari on the Mori river, in thána Chakariyá, and also all the country lying eastward of the surveyed villages of this thána between Bilchari and Páglábil.

As respects thána Rámú, all the country lying east of a line drawn from Páglábil in thána Chakariyá, to Idgarh, Garjáma and Kachipiyá in thána Rámú.

As respects thána Tek-Náf, all the country lying east of a line drawn from Kachipiyá, in thána Rámú, to Páglábil, Ratnápalong, Oáliyápalong, and Ukiya Ghát, as well as all to the east of the Náf river.

ACT No. XIX OF 1867.

Received the Governor General's assent on the 6th March, 1867.

An Act to make further provision for the administration of justice in the District of Darjeeling.

Preamble. WHEREAS it is expedient to make further provision for the administration of justice in the District of Darjeeling; It is hereby enacted as follows :—

1. [*Repeal of Act X of 1863.*] *Rep. by Act XVI of 1874, s. 1.*

High Court, Fort William, to exercise jurisdiction over Darjeeling.

2. The High Court of Judicature for the Bengal Division of the Presidency of Fort William shall have and exercise, with regard to the District of Darjeeling, all such jurisdiction and powers as it has and exercises with regard to any other territory.[a]

Rep. by Ben. Act VII of 1895

ACT No. XVI OF 1869.

Received the Governor General's assent on the 23rd July, 1869.

An Act to exclude the ordinary Civil Courts from the cognizance of suits relating to land in the Bhootan Dvárs, and for other purposes.

Preamble.

WHEREAS it is expedient to exclude the ordinary Civil Courts from the cognizance of suits relating to immoveable property, revenue and rent in the territory ceded by the Government of Bhootan to the British Government in the year 1866 and commonly known as the Bhootan Dvárs; and whereas certain rules relating to immoveable property, revenue and rent in the said territory, and contained in the schedule to this Act, have been made by the Lieutenant-Governor of Bengal, and it is expedient that such rules should have the force of law; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Bhootan Dvárs Act, 1869.

Abolition of Civil Courts' jurisdiction as to immoveables in Dvárs.

2. The jurisdiction which the ordinary Civil Courts of Judicature have hitherto had and exercised in respect of suits (whether instituted before or after the passing of this Act) and other matters connected with immoveable property, revenue and rent in the said territory shall cease.

Jurisdiction by whom exercisable.

3. Such jurisdiction shall be exercised by such officers and within such local limits as the Lieutenant-Governor of Bengal shall from time to time appoint in this behalf.

4. [*Pending suits and appeals.*] *Rep. by Act XVI of 1874, s. 1.*

Validation of rules.

5. The rules contained in the schedule to this Act shall be deemed to have the force of law.

Power to make additional rules.

6. The said Lieutenant-Governor may from time to time make additional rules consistent with this Act and the schedule hereto for the guidance of officers in matters connected with the enforcement of this Act and the rules contained in the said schedule.

Such additional rules shall be published in the Calcutta Gazette, and shall thereupon have the force of law.

[a] *i.e.*, outside the local limits of its ordinary original civil jurisdiction.

SCHEDULE.

Rules relating to immoveable Property, Rent and Revenue, in the Bhootan Dvárs.

I. At a reasonable time before any officer appointed under section 3 of the Bhootan Dvárs Act, 1869, shall commence his enquiries in any revenue-survey circuit or other convenient tract of country, a notice shall be published in such tract calling on all interested in the suits and matters mentioned in section 2 of the said Act to come forward and advance their claims and protect their interests before the said officer.

II. In the investigation of such suits and matters the said officer shall be guided by the provisions of Regulation VII of 1822, and shall exercise all the powers conferred upon a Collector making a settlement of land-revenue by that Regulation and all other Regulations and Acts amending the same, in addition to the powers vested in him by these rules.

III. The said officer shall make a record, in such form as the Lieutenant-Governor may direct, of all rights, interests and other matters which he is empowered by these rules to investigate, ascertain and determine.

IV. The said officer shall ascertain the position as to rights and interests connected with the soil which each person *bonâ fide* occupied before the state of things was affected by the Bhootan War, and, subject to due regard for considerations of public policy, confirm him in that position: he shall take cognizance of, and decide, all disputes, conflicting claims and doubtful questions which then existed: Provided that he shall not take cognizance of any right or interest which, being capable of exercise or assertion within twelve years before the date on which the Bhután Dvárs were transferred to the British Government, had not been exercised or asserted during the period.

V. As soon as the record-of-rights for any tract as mentioned in rule III is completed, the said officer shall cause it to be published in the tract, and a second copy shall be open for inspection at his office, of which fact due notice shall be given.

VI. Within one month of such publication any person who is dissatisfied with any entry in the record, which has not been adjudicated upon by the said officer, may present a petition to such officer, who shall thereupon proceed to try the questions in dispute.

VII. Any person aggrieved by any decision or order of the said officer may appeal by petition to the Commissioner of the division, or to any other officer specially appointed by the Lieutenant-Governor to be a Commissioner in that behalf: Provided that such appeal be presented within three months of the

date of the decision or order appealed against, unless sufficient cause for longer delay be shown to the satisfaction of the Commissioner.

VIII. The said officer may, within one month of the passing of any decision or order by him admit to review any such decision or order, and eventually amend, vary or correct the same: Provided that no appeal have been preferred against such order or decision to the appellate authority as defined in rule VII.

IX. The appellate authority may, within one month of the passing of any decision or order by such appellate authority on appeal, admit to review any such decision or order.

X. No appeal shall lie as of right to any authority against any order passed by the appellate authority under these rules, but, notwithstanding anything to the contrary in these rules, the Lieutenant-Governor of Bengal may, if he think fit, alter, vary or annul any decision or order which may have been passed under these rules: Provided that an application in that behalf shall have been made before or within one month after the issue of the notification of confirmation of the record under rule XI.

XI. When the record of any circuit or other tract, as mentioned in rule III, shall have been finally revised and amended in accordance with all orders passed by the said officer or the Commissioner of the division under these rules, the record shall be confirmed by an order of the Commissioner of the division to be published in the Calcutta Gazette.

XII. From the date of the publication of such confirmation the said record shall not be varied or altered otherwise than by an order of the Lieutenant-Governor under rule X, and such record shall be conclusive evidence as to any right, interest or other matter which may be entered on it in accordance with the provisions of these rules.

ACT No. XIX of 1871.[a]

Received the Governor General's assent on the 12th May, 1871.

An Act to provide for the appointment of Sessions Judges in Bengal and the North-Western Provinces.

Preamble.

WHEREAS it is expedient to provide for the appointment of Sessions Judges in the territories respectively under the Governments of the Lieutenant-Governors of the Lower and North-Western Provinces of the Presidency of Fort William in Bengal; It is hereby enacted as follows:—

1 to 6. [*Short title, &c.; power to appoint Sessions Judges; present Judges to*

[a] Under s. 3 of the Scheduled Districts Act, 1874, this Act has been declared in force in the districts of Hazáribágh, Lohardugga and Manbhoom, Pergunnah Dhalbhoom and the Kolhan—see *infra*, p. 668.

be deemed appointed under this Act ; preservation of existing Jurisdiction ; powers of such Judges ; places for trial of cases.] *Rep. by Act X of 1872, s. 2.*

Indemnity-clause.

7. No judgment heretofore given, order passed or proceeding had before any person who at any time has been appointed a Sessions Judge or Additional Sessions Judge, or who has been empowered to act as such in Bengal or the North-Western Provinces, shall be deemed to be or to have been invalid, and no suit shall lie in any Court in respect of any such judgment, order or proceeding merely on the ground that such Sessions Judge or Additional Sessions Judge or person empowered to act as such was not appointed or empowered in conformity to law.

CRIMINAL TRIBES' ACT, 1871.

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ACT No. XXVII OF 1871.[a]

Received the assent of the Governor General on the 12th October, 1871.

An Act for the Registration of Criminal Tribes and Eunuchs.

Preamble. WHEREAS it is expedient to provide for the registration, surveillance and control of certain criminal tribes and eunuchs; It is hereby enacted as follows:—

Short title. 1. This Act may be called the Criminal Tribes' Act, 1871.

[*Commencement.*] *Rep. by Act XVI of 1874, s. 1.*

Local extent. This section and section 20 extend to the whole of British India: the rest of this Act extends only to the territories under the governments of the Lieutenant-Governors of Bengal,[b] the North-Western Provinces and the Punjab, respectively, and under the administration of the Chief Commissioner of Oudh.

[a] Under s. 3 of the Scheduled Districts Act, 1874, this Act has been declared in force in the districts of Hazáribagh, Lohardugga and Manbhoom, Pergunnah Dhalbhoom and the Kolhan—see *infra*, p 668.

[b] The word "Bengal" in s. 1 has been inserted by Act VII of 1876, s 1—see *infra*, p 431.

PART I.

CRIMINAL TRIBES.

Local Government to report what tribes should be declared criminal.

2. If the Local Government has reason to believe that any tribe, gang or class of persons is addicted to the systematic commission of non-bailable offences, it may report the case to the Governor General in Council, and may request his permission to declare such tribe, gang or class to be a criminal tribe.

Report to contain certain particulars.

3. The report shall state the reasons why such tribe, gang or class is considered to be addicted to the systematic commission of non-bailable offences, and, as far as possible, the nature and the circumstances of the offences in which the members of the tribe are supposed to have been concerned; and shall describe the manner in which it is proposed that such tribe, gang or class shall earn its living when the provisions hereinafter contained have been applied to it.

Occupation of wandering tribe to be stated;

4. If such tribe, gang or class has no fixed place of residence, the report shall state whether such tribe, gang or class follows any lawful occupation, and whether such occupation is, in the opinion of the Local Government, the real occupation of such tribe, gang or class, or a pretence for the purpose of facilitating the commission of crimes, and shall set forth the grounds on which such opinion is based; and the report shall also specify the place of residence in which such wandering tribe, gang or class is to be settled under the provisions hereinafter contained, and the arrangements which are proposed to be made for enabling it to earn its living therein.

also proposed residence and means of livelihood.

Notification declaring tribe to be criminal.

5. If, upon the consideration of any such report, the Governor General in Council is satisfied that the tribe, gang or class to which it relates ought to be declared criminal, and that the means by which it is proposed that such tribe, gang or class shall earn its living are adequate, he may authorize the Local Government to publish in the local Gazette a notification declaring that such tribe, gang or class is a criminal tribe, and thereupon the provisions of this Act shall become applicable to such tribe, gang or class.

Bar of jurisdiction of Courts in questions relating to notification.

6. No Court of Justice shall question the validity of any such notification on the ground that the provisions hereinbefore contained, or any of them, have not been complied with, or entertain in any form whatever the question whether they have been complied with; but every such notification shall be conclusive proof that the provisions of this Act are applicable to the tribe, gang or class specified therein.

Register of members of such tribes.

7. When the notification mentioned in section 5 has been published, the Local Government may direct the Magistrate of any district in which such

tribe, gang or class, or any part thereof, is at the time resident, to make a register of the members of such tribe, gang or class, or of any part thereof.

The declaration of the Local Government that any such tribe, gang or class, or any part of it, is resident in any district shall be conclusive proof of such residence.

Procedure in making register.

8. Upon receiving such direction the said Magistrate shall publish a notice in the place where the register is to be made, calling upon all the members of such tribe, gang or class, or of such portion thereof as is directed to be registered, to appear, at a time and place therein specified, before such persons as he appoints, and to give those persons such information as may be necessary to enable them to make the register.

Penalties for failing to appear, refusing or giving false information.

9. Any member of any such tribe, gang or class, who, without lawful excuse, the burthen of proving which shall lie upon him,—

shall fail to appear according to such notice,

or who shall intentionally omit to furnish such information,

or who shall furnish, as true, information on the subject which he knows or has reason to believe to be false,

shall be deemed guilty of an offence under the first parts of section 174, or 176, or 177 of the Indian Penal Code, respectively, as the case may be XLV of 1860.

Charge of register. Reporting desirable alterations.

10. The register, when made, shall be kept by the District Superintendent of Police, who shall, from time to time, report to the said Magistrate any alterations which ought to be made therein, either by way of addition or erasure.

By whom alterations to be made.

11. No alteration shall be made in such register except by or by order of the said Magistrate, and he shall write his initials against every such alteration.

Notice to persons affected.

Notice shall be given of any such intended alteration, and of the time when, and place where, it is to be made, to every person affected thereby.

Complaints of entries in register.

12. Any person deeming himself aggrieved by any entry made, or proposed to be made, in such register, either when the register is first made or subsequently, may complain to the said Magistrate against such entry, and the Magistrate shall retain such person's name on the register, or enter it therein or erase it therefrom, as he may see fit.

Every order for the erasure of any such person's name shall state the grounds on which such person's name is erased.

The Commissioner shall have power to review any order of entry, retention or erasure passed by the said Magistrate on any such complaint, either on appeal by the person registered or proposed to be registered, or otherwise.

Settlement of tribe in place prescribed by Local Government.

13. Any tribe, gang or class, which has been declared to be criminal, and which has no fixed place of residence, may be settled in a place of residence prescribed by the Local Government.

Removal to other place.

14. Any tribe, gang or class which has been declared to be criminal, or any part thereof, may, by order of the Local Government, be removed to any other place of residence.

Arrangements to be made prior to settlement or removal.

15. No tribe, gang or class shall be settled or removed under the provisions of this Act until such arrangements as the Local Government shall, with the concurrence of the Governor General in Council, consider suitable, have been made for enabling such tribe, gang or class, or such part thereof as is to be so settled or removed, to earn a living in the place in or to which it is to be settled or removed.

Transfer of register persons ordered to be removed.

16. When the removal of any persons has been ordered under this Act, the register of such persons' names shall be transferred to the District Superintendent of Police of the district to which such persons are removed, and the Magistrate of the said district and the Commissioner of the division in which it is situated shall thereupon be empowered to exercise respectively the powers provided in sections 11 and 12.

Power to place tribe in reformatory settlement.

17. The Local Government may, with the sanction of the Governor General in Council, place any tribe, gang or class, which has been declared to be criminal, or any part thereof, in a reformatory settlement.

Power to make rules.

18. The Local Government may, with the previous consent of the Governor General in Council, make rules to prescribe—

(1) the form in which the register shall be made by the said Magistrate;

(2) the mode in which the said Magistrate shall publish the notice prescribed in section 8, and the means by which the persons whom it concerns, and the headmen, village-watchmen and landowners or occupiers of the village, in which such persons reside, [a] or the agents of such landowners or occupiers,[a] shall be informed of its publication;

(3) the mode in which the notice prescribed in section 11 shall be given;

(4) the limits within which persons whose names are on the register shall reside;

(5) conditions as to holding passes under which such persons may be permitted to leave the said limits;

(6) conditions to be inserted in any such pass as to—

(*a*) the places where the holder of the pass may go or reside;

(*b*) the officers before whom, from time to time, he shall be bound to present himself;

(*c*) and the time during which he may absent himself;

(7) conditions as to answering at roll-call or otherwise, in order to satisfy the said Magistrate, or persons authorized by him, that the persons

[a-a] These words in s. 18, cl. (2) have been inserted by Act VII of 1876, s. 2.—see *infra*, p. 431.

whose names are on the register are actually present at given times within the said limits;

(8) the inspection of the residences and villages of any such tribe, gang or class, and the prevention or removal of contrivances for enabling the residents therein to conceal stolen property, or to leave their place of residence without leave;

(9) the terms upon which registered persons may be discharged from the operation of this Act;

(10) the mode in which criminal tribes shall be settled and removed;

(11) the control and supervision of reformatory settlements;

(12) the works on which, and the hours during which, persons placed in a reformatory settlement shall be employed, the rates at which they shall be paid, and the disposal, for the benefit of such persons, of the surplus proceeds of their labour after defraying the whole or such part of the expenses of their supervision and control as to the Local Government shall seem fit;

(13) the discipline to which persons endeavouring to escape from any such settlement, or otherwise offending against the rules for the time being in force, shall be submitted; the periodical visitation of such settlement, and the removal from it of such persons as it shall seem expedient to remove;

(14) and generally to carry out the purposes of this Act.

Penalties for breach of rules.

19. Any person violating any of the rules made under section 18 shall be punished with rigorous imprisonment for a term which may extend to six months, or with fine, or with whipping, or with all or any two of those punishments; and, on any second conviction for a breach of any of the said rules, with rigorous imprisonment which may extend to one year, or with fine, or with whipping to be inflicted in the manner prescribed by any law in force for the time being in relation to whipping, or with all or any two of those punishments.

Arrest of registered person found beyond prescribed limits.

20. Any person registered under the provisions of this Act, who is found in any part of British India, beyond the limits so prescribed for his residence, without such pass as may be required by the said rules, or in a place or at a time not permitted by the conditions of his pass,

or who escapes from a reformatory settlement,

may be arrested without warrant by any police-officer or village-watchman and taken before a Magistrate, who, on proof of the facts, shall order him to be removed to the district in which he ought to have resided, or to the reformatory settlement from which he has escaped (as the case may be), there

to be dealt with according to the rules under this Act for the time being in force.

The rules for the time being in force for the transmission of prisoners shall apply to all persons removed under this section: Provided that an order from the Local Government or from the Inspector General of Prisons shall not be necessary for the removal of such persons.

Duties of village-headmen, village-watchmen, &c.

21. It shall be the duty of every village-headman and village-watchman in a village in which any persons belonging to a tribe, class or gang which has been declared criminal reside, and of every owner or occupier of land on which any such persons reside, [a]or of the agent of any such owner or occupier,[a] to give the earliest information in his power at the nearest police-station of—

(1) the failure of any such person to appear and give information as directed in section 8;

(2) the departure of any such person from such village or from such land (as the case may be).

And it shall be the duty of every village-headman and village-watchman in a village, and of every owner or occupier of land, [a]or of the agent of such owner or occupier,[a] to give the earliest information in his power at the nearest police-station of the arrival at such village or on such land (as the case may be) of any persons who may reasonably be suspected of belonging to any such tribe, class or gang.

Penalty for breach of such duties.

22. Any village-headman, village-watchman, owner or occupier of land, [a]or the agent of such owner or occupier,[a] who shall fail to comply with the requirements of section 21, shall be deemed to have committed an offence under the first part of section 176 of the Indian Penal Code. XLV of 1860.

23. [*Indemnity for past registrations and detentions.*] *Rep. by Act XII of 1876, s. 1.*

PART II.

EUNUCHS.

Register of eunuchs and their property.

24. The Local Government shall cause the following registers to be made and kept up by such officer as, from time to time, it appoints in this behalf:—

(*a*) a register of the names and residences of all eunuchs residing in any town or place to which the Local Government specially extends this Part of this Act, who are reasonably suspected of kidnapping or castrating children, or of committing offences under section 377 of the

[a]-[a]These words in ss. 21 and 22 have been inserted by Act VII of 1876, s. 2—see *infra*, p. 431.

Indian Penal Code, or of abetting the commission of any of the said offences; and XLV of 1860

(*b*) a register of the property of such of the said eunuchs as, under the provisions hereinafter contained, are required to furnish information as to their property.

"Eunuch" defined.

The term "eunuch" shall, for the purposes of this Act, be deemed to include all persons of the male sex who admit themselves, or on medical inspection clearly appear, to be impotent.

Complaints of entries in register.

25. Any person deeming himself aggrieved by any entry made or proposed to be made in such register, either when the register is first made or subsequently, may complain to the said officer, who shall enter such person's name or erase it, or retain it, as he sees fit.

Every order for erasure of such person's name shall state the grounds on which such person's name is erased.

The Commissioner shall have power to review any order passed by such officer on such complaint, either on appeal by the complainant or otherwise.

Penalty on registered eunuch appearing in female clothes; or dancing in public, or for hire.

26. Any eunuch so registered who appears, dressed or ornamented like a woman, in a public street or place, or in any other place, with the intention of being seen from a public street or place,

or who dances or plays music, or takes part in any public exhibition, in a public street or place or for hire in a private house,

may be arrested without warrant, and shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Penalty on registered eunuch keeping boy under sixteen.

27. Any eunuch so registered who has in his charge, or keeps in the house in which he resides, or under his control, any boy who has not completed the age of sixteen years, shall be punished with imprisonment for a term which may extend to two years, or with fine, or with both.

Maintenance and education of boys whose parents cannot be found.

28. The magistrate may direct that any such boy shall be returned to his parents or guardians, if they can be discovered. If they cannot be discovered, the Magistrate may make such arrangements as he thinks necessary for the maintenance and education of such boy, and may direct that the whole or any part of a fine inflicted under section 27 may be employed in defraying the cost of such arrangements.

The Local Government may direct out of what local or municipal fund so much of the cost of such arrangements as is not met by the fine imposed shall be defrayed.

Disabilities of registered eunuchs.

29. No eunuch so registered shall be capable—

(*a*) of being or acting as guardian to any minor,

(*b*) of making a gift,
(*c*) of making a will, or
(*d*) of adopting a son.

Power to require information as to registered eunuch's property.

30. Any officer authorized by the Local Government in this behalf may, from time to time, require any eunuch so registered to furnish information as to all property, whether moveable or immoveable, of or to which he is possessed or entitled, or which is held in trust for him.

Penalty for refusing such information.

Any such eunuch intentionally omitting to furnish such information, or furnishing, as true, information on the subject which he knows, or has reason to believe, to be false, shall be deemed to have committed an offence under section 176 or 177 of the Indian Penal Code, as the case may be.

XLV of 1860.

Rules for making and keeping up registers of eunuchs.

31. The Local Government may, with the previous sanction of the Governor General in Council, make rules for the making and keeping up and charge of registers made under this Part of the Act.

THE CHOTA NAGPORE ENCUMBERED ESTATES ACT, 1876.

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ACT No. VI of 1876.[a]

Received the Governor General's assent on the 14th March, 1876.

An Act to relieve certain Landholders in Chota Nagpore.

Preamble.

Whereas it is expedient to provide for the relief of holders of land in Chota Nagpore who may be in debt, and whose immoveable property may be subject to mortgages, charges and liens; It is hereby enacted as follows:—

I.—Preliminary.

Short title.

1. This Act may be called the Chota Nagpore Encumbered Estates Act, 1876.

II.—Vesting Order.

Power to vest management of property in an officer appointed by Commissioner.

2. Whenever any holder of immoveable property,

or (when such holder is a minor, or of unsound mind, or an idiot) his guardian, committee or other legal curator,

or the person who would be heir to such holder if he died intestate,

or (when such person is a minor, or of unsound mind, or an idiot) his guardian, committee or other legal curator,

or, when any such property belonging to such holder has been attached in execution of a decree of a Civil Court, the Deputy Commissioner within whose jurisdiction such property is situate,

applies in writing to the Commissioner, stating that the holder of the said property is subject to, or that his said property is charged with, debts or liabilities other than debts due, or liabilities incurred, to Government, and requesting that the provisions of this Act be applied to his case,

the Commissioner may, with the previous consent of the Lieutenant-

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[a] This Act, as amended by Act V of 1884, has been applied with certain modifications to the Deo Estate in the Gya District by Act IX of 1886, which, being of a purely private character, has not been reprinted in the Code.

Governor of Bengal, by order published in the Calcutta Gazette, appoint an officer (hereinafter called the manager), and vest in him the management of the whole or any portion of the immoveable property of or to which the said holder is then possessed or entitled in his own right, or which he is entitled to redeem, or which may be acquired by or devolve on him or his heir, during the continuance of such management.

[a]Every application under this section must state—

(*a*) the particulars of the debts and liabilities as aforesaid to which the said holder is subject or with which his immoveable property is charged; and

(*b*) the particulars of the immoveable property of or to which he is then possessed or entitled in his own right or which he is entitled to redeem.

Every such application must, except when it is made by a Deputy Commissioner, be verified by the applicant or by some other competent person in the manner required by law for the verification of plaints, and, if it contains any averment which the person making the verification knows or believes to be false or does not know or believe to be true, he shall be deemed to have given false evidence within the meaning of the Indian Penal Code.[a] XLV of 1860.

Effect of order.

3.[b] On the publication of an order under section 2,[b] the following consequences shall ensue:—

Bar of suits.

First, all proceedings which may then be pending in any Civil Court in British India, in respect to such debts or liabilities, shall be barred; and all processes, executions and attachments for or in respect of such debts and liabilities shall become null and void;

Freedom from arrest.

Secondly, so long as such management continues,

the holder of the said property and his heir shall not be liable to arrest for or in respect of the debts and liabilities to which the said holder was immediately before the said publication subject, or with which the property so vested as aforesaid or any part thereof was at the time of the said publication charged, other than debts due, or liabilities incurred, to Government,

Moveable property not attachable for prior debts.

nor shall their moveable property be liable to attachment or sale, under process of any Civil Court in British India, for or in respect of such debts and liabilities other than as aforesaid; and

Cessation of power to alienate.

Thirdly, so long as such management continues,

(*a*) the holder of the said immoveable property and his heir shall be incompetent to mortgage, charge, lease or alienate their immoveable

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[a-a] This part of s. 2 has been added by Act V of 1884, s. 2.

[b-b] These words and figure in s. 3 have been substituted by Act V of 1884, s. 3.

property or any part thereof, or to grant valid receipts for the rents and profits arising or accruing therefrom,

(*b*) such property shall be exempt from attachment or sale under such process as aforesaid, except for or in respect of debts due, or liabilities incurred, to Government, and — Immoveable property freed from attachment.

(*c*) the holder of the same property and his heir shall be incapable of entering into any contract which may involve them, or either of them, in pecuniary liability. — Cessation of power to contract.

III.—Duties of Manager.

4. The manager shall, during his management of the said immoveable property, receive and recover all rents and profits due in respect thereof; and shall, upon receiving such rents and profits, give receipts for the same. — Manager to receive rents and profits,

From the sums so received, he shall pay— — and pay therefrom—

first, the Government revenue, and all debts or liabilities for the time being due or incurred to Government; — the Government demand,

secondly, in the case of under-tenures, the rent (if any) due to the superior landlord, in respect of the said property; — rent due to superior landlord,

thirdly, such annual sum as appears to the Commissioner requisite for the maintenance of the holder of the property, his heir, and their families; — for maintenance of holder and his heir,

fourthly, the costs of such repairs and improvements of the property as appear necessary to the manager and are approved by the Commissioner; — costs of repairs and improvements,

and the residue shall be applied in discharge of the costs of the management, and in settlement of such debts and liabilities of the holder of the property and his heir as may be established under the provisions hereinafter contained, — costs of management, debts and liabilities,

[a]and also in or towards the repayment, either before or after the liquidation of such debts and liabilities, of any loan received from the Government by the manager under this Act.[a] — and Government loan to himself.

IV.—Settlement of Debts.

5. On the publication of the order vesting in him the management of the said property, the manager shall publish a notice in English, Urdu and Hindi, calling upon all persons having claims against the holder of the said — Notice to claimant against holder of property.

[a-a] This part of s. 4 has been added by Act V of 1884, s. 4.

property to notify the same in writing to such manager within three months from the date of the publication.

Notice how published.

Such notice shall be published by being posted at the kachahris in the district or districts in which the said property lies, and at such other places as the manager thinks fit.

Claim to contain full particulars.

6. Every such claimant shall, along with his claim, present full particulars thereof.

Documents to be given up.

Every document on which the claimant founds his claim, or on which he relies in support thereof, shall be delivered to the manager along with the claim.

Entries in books.

If the document be an entry in any book, the claimant shall produce the book to the manager, together with a copy of the entry on which he relies. The manager shall mark the book for the purpose of identification, and, after examining and comparing the copy with the original, shall return the book to the claimant.

Exclusion of documents not produced.

If any document in the possession or under the control of the claimant is not delivered or produced by him to the manager along with the claim, the manager may refuse to receive such document in evidence on the claimant's behalf at the investigation of the case.

Debt not duly notified to be barred.

7. Every debt or liability other than debts due, or liabilities incurred, to Government or (in the case of under tenures) the rent due to the superior landlord, to which the holder of the property is subject, or with which the property is charged, and which is not duly notified to the manager within the time and in manner hereinbefore mentioned, shall be barred:

Admission of claim within further period.

Provided that, when proof is made to the manager that the claimant was unable to comply with the provisions of sections 5 and 6, the manager may admit his claim within the further period of [a]six months[a] from the expiration of the said period of three months.

Determination of debts.

8. The manager shall, in accordance with the rules to be made under this Act, determine the amount of all principal debts and liabilities justly due to the several creditors of the holder of the property, and to persons holding mortgages, charges or liens thereon, and the interest (if any) due at the date of such determination in respect of such debts and liabilities.

Power to inquire into consideration for leases.

9. If such property or any part thereof be in the possession of any person claiming to hold it under a lease dated within the three years immediately preceding the publication of the order mentioned in section 2, the manager, with the sanction of the Deputy Commissioner and Commissioner (or of the Commissioner only, if the Deputy Commissioner be himself the manager), may

[a-a] These words in s. 7 have been substituted by Act V of 1884, s. 5.

inquire into the sufficiency of the consideration for which the lease was given; and, if such consideration appear to him insufficient, may by order either set aside the lease or cause the person so in possession to pay such consideration for the said lease as the manager thinks fit, and in default of such payment the lease shall be cancelled.

Power to set aside leases.

10. An appeal against any refusal, admission, determination or order under section 6, 7, 8 or 9 shall lie, if preferred within six weeks from the date thereof, to the Deputy Commissioner within whose jurisdiction the property is situate, and the decision of the manager, if no such appeal has been so preferred, shall be final:

Appeal to Deputy Commissioner.

Provided that, if the Deputy Commissioner be himself the manager, the appeal shall lie to the Commissioner.

An appeal shall lie from any decision of the Deputy Commissioner, if preferred within six weeks of the date of his decision, to the Commissioner, and the decision of such Commissioner, or of the Deputy Commissioner if no such appeal has been so preferred, shall be final.

Appeal to Commissioner.

11. When the amount due in respect of the debts and liabilities mentioned in section 8 has been finally determined, the manager shall prepare and submit to the Commissioner a schedule of such debts and liabilities, and a scheme for the settlement thereof; and such scheme, when approved by the Commissioner, shall be carried into effect.

Scheme for settlement of debts.

Until such approval is given the Commissioner may, as often as he thinks fit, send back such scheme to the manager for revision, and direct him to make such further inquiry as may be requisite for the proper preparation of the scheme.

Power to return scheme for revision.

12. [a]When all the debts and liabilities mentioned in the schedule referred to in section 11, and the amount of any loan received from the Government under section 18, together with the interest (if any) due thereon, have been paid and discharged,[a]

Restoration of owner to his property.

[a]or if the Commissioner, at any time before a scheme has been approved by him under section 11, thinks that the provisions of this Act should not continue to apply to the case of the holder of the said property or his heir,[a]

[b]or if at any time an arrangement is made for the satisfaction of the debts and liabilities which is accepted by the creditors and approved by the Commissioner,[b]

such holder or his heir shall be restored to the possession and enjoyment of the property, or of such part thereof as has not been sold by the manager under the power contained in section 18, but subject to the leases and mort-

[a-a] [b-b] These paras. of s. 12 have been respectively substituted and inserted by Act V of 1884, s. 6.

gages (if any) granted and made by the manager under the powers hereinafter contained.

Restoration to be notified.

Revival of barred proceedings and debts.

Reinstatement of mortgagees.

Where the holder of the property or his heir is so restored under the circumstances mentioned in the second clause of this section, such restoration shall be notified in the Calcutta Gazette, and thereupon the proceedings, processes, executions and attachments mentioned in section 3 (so far as they relate to debts and liabilities which the manager has not paid off or compromised), and the debts and liabilities barred by section 7, shall be revived; and any mortgagee or conditional vendee dispossessed under section 16 shall be reinstated, unless his claim under the mortgage or conditional sale has been satisfied;

Period of limitation as to revived proceedings and debts.

and in calculating the periods of limitation applicable to such revived proceedings, and to suits to recover and enforce such revived debts and liabilities, the time intervening between such restoration and the publication of the order mentioned in section 2 shall be excluded.

V.—Powers of Manager.

Power to call for further particulars.

13. The manager may, from time to time, call for further and more detailed particulars of any claim preferred before him under this Act, and may at his discretion refuse to proceed with the investigation of the claim until such particulars are supplied.

Power to summon witnesses and compel production of documents.

14. For the purposes of this Act the manager may summon and enforce the attendance of witnesses and compel them to give evidence, and compel the production of documents by the same means, and, as far as possible, in the same manner, as is provided in the case of a Civil Court by the Code of Civil Procedure.[a] XIV of 1882.

Investigation to be deemed a judicial proceeding.

15. Every investigation conducted by the manager with reference to any claim preferred before him under this Act, or to any matter connected with any such claim, shall be taken to be a judicial proceeding within the meaning of the Indian Penal Code. XLV of 1860.

Statements of persons examined to be evidence.

And every statement made by any person examined by or before the manager with reference to such investigation, whether upon oath or otherwise, shall be taken to be evidence within the meaning of the same Code.

Manager to have powers of holder of estate.

16. The manager shall have, for the purpose of realizing and recovering the rents and profits of the said immoveable property, the same powers as the holder of the property would have had for such purpose if this Act had not been passed.

[a] See Act XIV of 1882, s. 3.

And if such property, or any part thereof, be in the possession of any mortgagee or conditional vendee, the manager may apply to the Court of the Deputy Commissioner within whose jurisdiction the property is situate, and such Court shall cause the same to be delivered to the manager as if a decree therefor had been made in his favour, but without prejudice to the mortgagee or vendee preferring his claim under the provisions hereinbefore contained. Power to remove mortgagee or conditional vendee in possession.

17. Subject to the rules made under section 19, the manager shall have power to demise all or any part of the property under his management, for any term of years [a]or in perpetuity[a] to take effect in possession, in consideration of any fine or fines, or without fine, and reserving such rents and under such conditions as may be agreed upon. Power to lease.

18. The manager, with the previous assent of the Commissioner, shall have power to raise any money which may be required for the settlement of the debts and liabilities (other than as aforesaid) to which the holder of the property is subject, or with which such property or any part thereof is charged, Power to raise money by mortgage or sale.

by demising by way of mortgage the whole or any part of such property for a term not exceeding twenty years from the said publication,

or by selling,[b] by public auction or by private contract, and upon such terms as the manager thinks fit, such portion of the same property as may appear expedient, [c]or by borrowing money from the Government at such rate of interest as appears reasonable to the Local Government.[c]

And no mortgagee advancing money upon any mortgage made under this section shall be bound to see that such money is wanted, or that no more than is wanted is raised.

And the receipt of the manager for any moneys paid to him as such shall discharge the person paying the same therefrom and from being concerned to see to the application thereof. Manager's receipts.

[d]The powers conferred by this section shall not be exercised until a scheme has been approved by the Commissioner under section 11.[d]

VI.—Miscellaneous.

19. The Lieutenant-Governor of Bengal may, from time to time, make rules consistent with this Act to regulate the following matters:— Power to make rules.

(*a*) the security to be required from subordinate officers under this Act;

[a-a] These words in s. 17 have been substituted by Act V of 1884, s. 7.
[b] Certain words of s. 18, repealed by Act V of 1884, s. 8 (*a*), have here been omitted.
[c-c-d] These words in s. 18 have been respectively inserted and substituted by Act V of 1884, s. 8 (*b*) and (*c*).

[a](*aa*) the classes of cases which may be submitted by the Commissioner for the consent of the Lieutenant-Governor under section 2;

(*b*) the notices to be given under this Act and the publication of such notices;

(*c*) the procedure to be followed in determining under section 8 the debts and liabilities due to creditors and other persons, and in performing the other duties imposed on any officer by this Act;

(*d*) the allowance of interest on each of the principal debts and liabilities so determined, from the date on which it was incurred down to the date of the determination, and on the aggregate amount of such debts and liabilities from the date of the determination down to the date of payment;

(*e*) the order of paying debts and liabilities so determined;

and generally for the guidance of officers in all matters connected with the enforcement of this Act.

Such rules, when approved by the Governor General in Council and published in the Calcutta Gazette, shall have the force of law.[b]

Power to appoint new managers.

20. Whenever the Commissioner thinks fit, he may appoint any officer to be a manager in the stead of any manager appointed under this Act; and thereupon the property then vested under this Act in the former manager shall become vested in the new manager.

Every such new manager shall have the same powers as if he had been originally appointed.

Managers to be public servants.

21. Every manager appointed under this Act shall be deemed a public servant within the meaning of the Indian Penal Code. XLV of 1860.

Bar of suits.

22. No suit or other proceeding shall be maintained against any person in respect of anything done by him *bonâ fide* pursuant to this Act.

Saving of jurisdiction of Courts in Chota Nagpore in respect of certain suits.

23. Nothing in this Act precludes the Courts in Chota Nagpore having jurisdiction in suits relating to the succession to, or claims of maintenance from, any immoveable property brought under the operation of this Act from entertaining and disposing of such suits; but to all such suits the manager of such property shall be made a party.

Act not to affect powers conferred by Bengal Act II of 1869.

24. Nothing in this Act shall be deemed to take away or abridge any power or authority conferred by an Act passed by the Lieutenant-Governor of Bengal in Council, entitled "An Act to ascertain, regulate and record certain tenures in Chota Nagpore," on any person appointed to be a Special Commissioner thereunder, or on the Commissioner of the division of Chota Nagpore.

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[a] Cl. (*aa*) of s. 19 has been inserted by Act V of 1884, s. 9.

[b] For rules under s. 19, see Calcutta Gazette, 3rd October, 1877, Part I, p. 1441.

ACT No. VII of 1876.[a]

Received the assent of the Governor General on the 21st March, 1876.

An Act to extend the Criminal Tribes Act, 1871, to the Lower Provinces of Bengal, and to amend the same Act.

Preamble. WHEREAS it is expedient to extend Act No. XXVII of 1871 (*for the Registration of Criminal Tribes and Eunuchs*) to the Lower Provinces of Bengal, and to amend the same Act in manner hereinafter appearing; It is hereby enacted as follows:—

Extension of Act XXVII of 1871 to Bengal. 1. Section 1 of the said Act shall be read as if, after the words "Lieutenant-Governors of", the following word were inserted (namely), "Bengal".

Amendment of section 18 of the Act. 2. Section 18 of the said Act shall be read as if in the second clause, after the words "persons reside", the following words were inserted (namely), "or the agents of such landowners or occupiers".

Amendment of section 21 of the Act. Section 21 of the said Act shall be read as if in the first clause, after the words "persons reside", the following words were inserted (namely), "or of the agent of any such owner or occupier",

and as if in the fourth clause, after the words "occupier of land", the following words were inserted (namely), "or of the agent of such owner or occupier".

Amendment of section 22 of the Act. And section 22 of the same Act shall be read as if, after the words "occupier of land", the following words were inserted (namely), "or the agent of such owner or occupier".

ACT No. XXII of 1876.

Received the Governor General's assent on the 17th December, 1876.

An Act to provide for the management of the Public Museum at Calcutta.

Preamble. WHEREAS, by Act No. XVII of 1866, reciting that it was expedient to provide for the establishment of a Public Museum at Calcutta, to be called the Indian Museum, it was enacted that the Governor General in Council should cause to be erected at the expense of the Government of India a suitable building in Calcutta, to be devoted in part to collections illustrative of Indian Archæology and of the several branches of Natural History, in part to the preservation and exhibition of other objects of interest, whether historical,

[a] Under s. 3 of the Scheduled Districts Act, 1874, this Act has been declared in force in the districts of Hazáribágh, Lohardugga and Manbhoom, Pergunnah Dhalbhoom and the Kolhan—see *infra*, p. 670.

physical or economical, in part to the records and offices of the Geological Survey of India, and in part to the fit accommodation of the Asiatic Society of Bengal and to the reception of their library, manuscripts, maps, coins, busts, pictures, engravings and other property; and it was also enacted that the Government of India should keep the said building in repair and pay and defray the salaries, allowances and pensions of the officers and servants, and all other expenses, connected with the said Museum; and by the Act now in recital certain officials and other persons therein mentioned or referred to, to the number of thirteen, and their successors, were constituted a Body Corporate by the name of the Trustees of the Indian Museum, and the said trustees were empowered to receive bequests, donations and subscriptions, and to deal with the same in the manner therein mentioned for the purposes of their trusts therein mentioned; and it was also enacted that the said trustees should have the exclusive possession, occupation and control, for the purposes of such trusts, of the said building, other than those portions thereof which, upon its completion, should be set apart by the said trustees for the records and offices of the said Geological Survey and for the accommodation of the said Asiatic Society and the reception of their library, manuscripts, maps, coins, busts, pictures, engravings and other property; and it was also enacted that all officers and servants, salaried or otherwise, employed in the care or management of the trust-property, should be appointed, and might be removed or suspended, by the said trustees, subject to such regulations and conditions as the said trustees should think proper; and it was also enacted that the Council of the said Asiatic Society should cause the collections belonging to such Society, and illustrative of Indian Archæology and the several branches of Natural History, and all additions that might be made thereto, to be removed to and deposited in the said building at the expense of the Government of India as soon as the same should be completed so far as to be in a condition to receive the said collections, and that an inventory of the articles in such collections should be made by the said Society, one copy whereof was to be signed by the said trustees and kept by the said Society, and another copy was to be signed by the said Society and kept by the said trustees, and that the said Society should continue to have the same exclusive property in and control over their said library, manuscripts, maps, coins, busts, pictures and engravings which they then possessed, and that the Council of the said Society should have the exclusive possession, occupation and control, for the purposes of the said Society, of those portions of the said building which should be set apart for the accommodation of the said Society and the reception of their library and other property thereinbefore mentioned;

And whereas the Government of India has caused the said building to be erected, and the Council of the said Society has caused the said collections belonging to the same Society to be removed to and deposited in the said building at the expense of the Government of India; and an inventory of the articles in such collections has been made by the said Society, one copy whereof has been signed by the said trustees and delivered to the said Society, and another copy has been signed by the Council of the said Society and delivered to the said trustees;

And whereas the said trustees have, in pursuance of the said Act, set apart certain portions of the said building for the said records and offices of the Geological Survey of India;

And whereas, in consideration of a sum of one hundred and fifty thousand rupees paid to them by the Government of India, the Council of the said Society has relinquished the exclusive possession, occupation and control, secured to them by the said Act, of the portions of the said building which, under the said Act, were to be set apart for the accommodation of the said Society and the reception of their said library and other property;

And whereas it is expedient to alter the constitution of the said Body Corporate and to amend the law relating to the appointment and salaries of the said officers:

And whereas under the circumstances aforesaid it is expedient to repeal the said Act, and to re-enact it with the modifications hereinafter appearing; It is hereby enacted as follows:—

Preliminary.

Short title.

1. This Act may be called the Indian Museum Act, 1876.

Repeal of Act XVII of 1866.

2. Act No. XVII of 1866 (*to provide for the establishment of a Public Museum at Calcutta*) shall be repealed. But all persons nominated under the said Act as trustees of the Indian Museum, and all officers and servants appointed under the same Act and now holding office, shall be deemed to have been respectively nominated and appointed under this Act.

Constitution and incorporation of the Trustees of the Indian Museum.

3.[a] The Trustees of the said Indian Museum shall be—

(*a*) the person for the time being holding the office of Accountant General of Bengal;

(*b*) five other persons to be appointed by the Governor General in Council;

(*c*) five other persons to be appointed by the Lieutenant-Governor of Bengal;

[a] S. 3 has been substituted by Act IV of 1887, s. 3.

(*d*) five other persons to be appointed by the Council of the Asiatic Society of Bengal; and

(*e*) five other persons to be appointed by the trustees;

and the said trustees shall be a body corporate, by the name of the trustees of the Indian Museum, and shall have perpetual succession and a common seal.

Number of corporators.

4.[a] All the powers of the said body corporate may be exercised so long and so often as there are nine members thereof.

Power to appoint new Trustees.

5.[a] If a trustee appointed under section 3 dies, or is absent from the meetings of the Trustees for more than twelve consecutive months, or desires to be discharged, or refuses or becomes incapable to act, or becomes Accountant General of Bengal, then the authority which appointed the trustee may appoint a new trustee in his place.

Powers of the Trustees.[b]

Trustees empowered to receive bequests, donations and subscriptions.

6. It shall be lawful for the said trustees (*a*) to receive bequests, donations and subscriptions of land, buildings, money and any such objects of interest as aforesaid, and (*b*) to hold the same and to lay out such money for the maintenance, improvement and enlargement of the collections deposited in, presented to or purchased for the said Indian Museum, and otherwise for the purposes of the same museum;

and all such collections shall become the property of the said trustees for the purposes of their trusts herein mentioned;

and the said trustees shall have the exclusive possession, occupation and control, for the purposes of such trusts, of the whole of the said building, other than those portions thereof which have been set apart by the said trustees for the records and offices of the Geological Survey of India.

Power to trustees to make bye-laws.

7. The said trustees may from time to time make bye-laws consistent with this Act—

(*a*) for the management of the said museum;

(*b*) for the summoning, holding and adjournment of general and special meetings of the said trustees;

(*c*) for securing their attendance at such meetings;

(*d*) for the provision and keeping of minute-books and account-books;

(*e*) for the compiling of catalogues; and

(*f*) for all other purposes necessary for the execution of their trusts.

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[a] Ss. 4 and 5 have been substituted by Act IV of 1887, s. 3.

[b] As to powers of trustees to keep collections not belonging to them, and to part with certain property in their possession, see Act IV of 1887, ss. 5 and 6, *infra*, pp. 581 and 582

Power to trustees to appoint officers and servants.

8. Subject to such regulations and conditions as the trustees think fit, they shall appoint, and may remove or suspend, all officers and servants, salaried or otherwise, employed in the care or management of the trust-property:

Provided—

(*a*) that no officer be appointed without the approval of the Governor General in Council if such officer be, at the date of his appointment, in India, or without the approval of the Secretary of State for India in Council if such officer be not then in India;

(*b*) that no new office be created, and no salaries of officers be altered, without the previous sanction of the Governor General in Council.

Trustees may exchange or sell duplicates.

9. The said trustees may from time to time order any duplicates of printed books, medals, coins, specimens of Natural History or other curiosities deposited in the Indian Museum to be exchanged for manuscripts, books or other objects of interest, or direct any such duplicates to be sold and the money to arise from such sale to be laid out in the purchase of manuscripts, books, maps, medals, coins, specimens of Natural History or other curiosities that may be proper for the said museum.

Quorum.

10. At all meetings of the said trustees three shall be a quorum for the transaction of business and for the exercise of any of the powers conferred upon them by this Act.

Duties of the Trustees.

Trustees shall furnish annual reports and accounts.

11. The said trustees shall furnish to the Government of India, on or before the first day of December in each year, a report of their several proceedings for the past twelve months, and further shall furnish, on or before the same day in each year, to such Auditor as the Governor General in Council appoints in this behalf, accounts of all moneys expended by the trustees during the past twelve months, supported by the necessary vouchers.

The said trustees shall cause such report and accounts to be annually published for general information.

Collections of Asiatic Society to be kept distinguished in the museum.

12. The said trustees shall cause every article in the said collections belonging to the Asiatic Society, and all additions that may hereafter be made thereto otherwise than by purchase under section 6, to be marked and numbered, and (subject to the provisions contained in sections 9 and 15) to be kept and preserved in the said Indian Museum with such marks and numbers; and an inventory of such additions shall be made by the said Society, one copy whereof shall be signed by the said trustees and delivered to the said Society, and another copy shall be signed by the Council of the said Society and delivered to the said trustees, and shall be kept by them along with the inventory already delivered to the said trustees as aforesaid.

Articles received in exchange and moneys paid on sale to be held on trust.

13. All objects taken in exchange under section 9 for, and all moneys payable on sale under the same section of, any of such articles, shall be held on trusts and subject to powers and declarations corresponding as nearly as may be with the trusts, powers and declarations by this Act limited and declared concerning the same articles.

Miscellaneous.

Officers under Act to be public servants;

their salaries, pensions and leave.

14. All officers and servants appointed under this Act shall be considered public servants within the meaning of the Indian Penal Code; and, so far as regards their salaries, allowances and pensions and their leave of absence from duty, they shall be subject to the rules for the time being applicable to uncovenanted civil servants of the Government of India. XLV of 1860.

In case of determination of trust, Asiatic Society may reclaim their collections.

15. In the event of the trust hereby constituted being determined, all collections then in the said Indian Museum, other than those next hereinafter mentioned, shall become the property of the Government of India, and the collections and additions mentioned in section 12 shall become the property of the said Society or their assigns.

ACT No. IX OF 1879.

Received the Governor General's assent on the 23rd May, 1879.

An Act to amend the law relating to Coast-lights in the Eastern part of the Bay of Bengal.

Preamble.

WHEREAS it is expedient to increase the coast-light dues paid under the provisions of Act No. XIII of 1867[a] (*an Act to provide for the establishment and maintenance of Coast-lights in the Eastern part of the Bay of Bengal*), and to render chargeable with coast-light dues certain vessels which are not now so chargeable; It is hereby enacted as follows:—

Preliminary.

Short title.

1. This Act may be called the Burma Coast-lights Act, 1879:

Commencement.

It shall come into force on the first day of July, 1879;

Local extent.

and it shall extend to the territories respectively administered by the Governors of Fort St. George and Bombay in Council, the Lieutenant-Governor of Bengal and the Chief Commissioners of British Burma[b] and the Andaman and Nicobar Islands.

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[a] Act XIII of 1867 has been repealed by s. 2 of this Act.
[b] Now Lower Burma—see Act XX of 1886, s. 4.

But nothing herein contained shall apply to any vessel belonging to or in the service of Her Majesty or the Government of India, or to any vessel of war belonging to any Foreign Prince or State.

Repeal. 2. Act No. XIII of 1867 (*to provide for the establishment and maintenance of Coast-lights in the Eastern part of the Bay of Bengal*) is hereby repealed.

But any appointment made under the said Act shall be deemed to have been made under this Act.

Interpretation-clause. 3. In this Act, unless there is something repugnant in the subject or context,—

"Customs-Collector." "Customs-Collector" means a Customs-Collector appointed under the III of 1878. Sea Customs Act, 1878, and includes any person appointed by the Local Government by name or in virtue of his office to discharge the functions of a Customs-Collector under this Act at any port:

"Vessel." "Vessel" includes anything made for the conveyance by water of human beings or of property:

"Master." "Master," when used in relation to any vessel, means any person (except a Pilot or Harbour-Master) having, for the time being, the charge or control of such vessel:

"Voyage." "Voyage" means the whole distance between a vessel's place of departure and her final place of arrival; but the return of a vessel from any place shall, notwithstanding the terms of any charter-party, be deemed a distinct voyage.

Coast-light Dues.

Coast-light dues payable in respect of vessels of fifty tons. 4. For the purpose of establishing and maintaining coast-lights in the eastern part of the Bay of Bengal, a toll, hereinafter called "coast-light dues," shall be paid in respect of every vessel of the burden of fifty tons and upwards making any voyage mentioned in the schedule hereto annexed, at the rate of one anna and six pie per ton of burden:

Provided that such vessel sails from or enters during the course of, or at the termination of, any such voyage a port in British India, or takes in, or discharges, cargo off the coast of British India.

Dues when payable. 5. The said coast-light dues shall become due and payable—

(*a*) in the case of a vessel clearing out of a port in British India upon any such voyage—previous to the grant of any port-clearance;

(*b*) in the case of a vessel entering a port in British India in the course, or at the termination, of any such voyage—immediately upon her entering such port:

Provided that the said dues shall not be levied more than once on any vessel in the course of the same voyage.

Power to vary rates of dues.

6. The Governor General in Council may from time to time, by notification in the Gazette of India, reduce or raise the rate of coast-light dues in respect of all vessels or any particular class of vessels:

Proviso.

Provided that such rate shall not in any case exceed the rate fixed by section 4.

Collection of dues, voucher to be given.

7. The Customs-Collector shall collect the coast-light dues, and shall grant to the person paying the same a voucher in writing under his hand, setting forth the name of his office, the port at which the coast-light dues are paid, the amount so paid, the name, tonnage and other proper description of the vessel in respect of which such payment is made, and the voyage on which she is or has been bound.

Master to report arrival.

8. Within twenty-four hours after the arrival within a port of any vessel chargeable with coast-light dues, the master of such vessel shall give notice of such arrival to the Customs-Collector.

Tonnage of vessel chargeable with coast-light dues how ascertained;

9. In order to ascertain the tonnage of any vessel chargeable with coast-light dues, the following rules shall be observed:—

If registered;

(*a*) If such vessel be a British registered vessel or vessel registered under Act No. X of 1841 or Act No. XI of 1850, or under any other law for the time being in force for the registration of vessels in India, the Customs-Collector may require the owner or master of such vessel, or any other person having possession of her register, to produce such register for inspection. If any such owner, master or other person neglects or refuses to produce such register, or otherwise to satisfy the Customs-Collector as to what is the true tonnage of the vessel in respect of which such coast-light dues are payable, he shall be punished with fine which may extend to one hundred rupees, and the Customs-Collector may cause such vessel to be measured and the tonnage thereof to be ascertained; and in such case the owner or master of such vessel shall also be liable to pay the expenses of such measurement.

If not registered

(*b*) If such vessel be not a British registered vessel or a vessel registered under Act No. X of 1841 or Act No. XI of 1850, or under any other law for the time being in force for the registration of vessels in India, and the owner or master thereof fails to satisfy the Customs-Collector as to what is her true tonnage according to the mode of measurement prescribed by the law in force for the time being for regulating the measurement of British registered vessels, the Customs-Collector shall cause such vessel to be measured and the tonnage thereof, according to the mode aforesaid, to be ascertained; and in

such case the owner or master of such vessel shall be liable to pay the expenses of such measurement.

On refusal to pay dues or expenses, the Collector may distrain and sell.

10. If the master of any vessel refuses or neglects to pay to the Customs-Collector on demand by him the amount of any dues or expenses payable in respect of such vessel under this Act, the Customs-Collector may distrain or arrest such vessel, and the tackle, apparel and furniture belonging thereto, or any part thereof, and detain the same until the amount of such dues or expenses is paid;

and in case any part of such dues or expenses, or of the costs of the distress or arrest, or of the keeping of the same, remains unpaid for the space of five days next after any such distress or arrest so made, the Customs-Collector may cause the vessel or other thing so distrained or arrested to be sold, and with the proceeds of such sale may satisfy such dues, expenses and costs (including the costs of sale) remaining unpaid, and shall render the surplus (if any) to the master of such vessel upon demand.

No port-clearance to be granted until dues, &c., are paid.

11. The officer of Government whose duty it is to grant a port-clearance for any vessel shall not grant such port-clearance until her master or some other person has paid, or secured to the satisfaction of such officer, the amount of all dues, expenses and costs with which such vessel is chargeable under this Act, and of any fine to which any person is liable for anything done by him in contravention of this Act.

Master to specify on demand voyage on which vessel is bound.

12. The master of any vessel departing from or entering any port in British India upon, or in the course of, or at the termination of, any voyage, shall, upon the demand of the Customs-Collector, specify upon what voyage she is or has been bound.

Penalty for evading payment of dues, &c.

13. If the master of any vessel evades, or attempts to evade, the payment of any coast-light dues, expenses or costs payable in respect of such vessel under this Act, he shall be punished with fine which may extend to two hundred rupees.

Determination of Disputes under Act.

Magistrate to decide disputes.

14 If any dispute arises as to whether any vessel is chargeable with any coast-light dues, expenses or costs under this Act, or as to the amount of such dues, expenses or costs, such dispute shall, upon application made in that behalf by either of the disputing parties, be heard and determined in the towns of Calcutta, Madras and Bombay by a Presidency Magistrate, and elsewhere by any Magistrate exercising at the place where the dispute arises powers under the Code of Criminal Procedure[*] not less than those of a Magistrate of the second class. All decisions under this section shall be final.

X of 1882.

[*] See Act X of 1882, s. 3.

1882

(*Prosecutions under other Laws. Sec. 15. Statement of Receipts and Expenditure. Sec. 16. Amendment of Act XII of 1875. Sec. 17. Schedule.*)

Prosecutions under other Laws.

Saving of prosecutions under other laws.

15. Nothing herein contained shall prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act:

Provided that no person shall be punished twice for the same act or omission.

Statement of Receipts and Expenditure.

Statement of receipts and expenditure to be published.

16. The Governor General in Council shall, on or before the first day of October in each year, publish in the Gazette of India a statement showing the amount received on account of coast-light dues during the year ending on the thirty-first day of March last preceding, and the amount expended during the same period on the establishment and maintenance of coast-lights in the eastern part of the Bay of Bengal.

And whereas it is also expedient to amend the Indian Ports Act, 1875, in manner hereinafter appearing; It is hereby further enacted as follows:— XII of 1875.

[Amendment of Indian Ports Act, 1875.] Rep. by act XVI of 1879.

17. For section 77 of the same Act the following shall be substituted:—

[*Omitted as referring only to Burma.*]

SCHEDULE.

(*See section 4.*)

1. A voyage to or from Chittagong or any place west of the longitude of Chittagong—	(*a*) from or to any port in British Burma; or (*b*) from or to any port in the Andaman and Nicobar Islands or any place east of the longitude of Mergui, by a course passing between the northern extremity of the Andaman Islands and the coast of British Burma.
2. A voyage to or from any port in British Burma[a]—	from or to any other port in British Burma[a],

except voyages to or from Maulmain, from or to Tavoy or Mergui, or to or from Tavoy from or to Mergui.

3. A voyage to or from Rangoon and any port in British Burma[a] west of the longitude of Rangoon—	from or to any place east of the longitude of Mergui.
4. A voyage to or from any port in British Burma[a] other than Tavoy and Mergui—	from or to any port in the Andaman and Nicobar Islands.

[a] Now Lower Burma see Act XX of 1886, s. 4.

ACT No. XIX OF 1879.

Received the Governor General's assent on the 29th October, 1879.

An Act to amend the law in force in Thánás Raipur and Khattra.

Preamble. WHEREAS the territory comprised in the tháná of Raipur (including the independent police-outpost of Simlapal) and the tháná of Khattra has been transferred from the district of Manbhoom to the district of Bankoora;

And whereas the said territory, when included in the district of Manbhoom, formed portion of the Chota Nagpore Division, which is a scheduled district under Act No. XIV of 1874 (the Scheduled Districts Act, 1874);

And whereas it is expedient that the law in force in the said territory should be the same as the law in force in the district of Bankoora; It is hereby enacted as follows:—

Short title. 1. This Act may be called the Raipur and Khattra Laws Act, 1879: and it shall come into force at once.

Commencement.

Laws of Bankoora to apply. Other laws repealed. 2. All enactments which on the first day of October, 1879, were in force in the district of Bankoora and not in the said territory shall be deemed to have come into force in the said territory on that day; and all enactments which on that day were in force in the said territory and not in the district of Bankoora shall be deemed to have been repealed on and from that day in the said territory.

Pending proceedings. 3. All proceedings commenced before any authority in the said territory before the said first day of October, 1879, and still pending shall be disposed of by such authority as the Local Government may direct and, save as aforesaid, shall be carried on as if this Act had not been passed.

Territory to cease to be a scheduled district. 4. The said territory shall be deemed to have ceased to be a scheduled district on the said first day of October, 1879.

ACT No. VII OF 1881.[a]

Received the Governor General's assent on the 21st January, 1881.

An Act to amend Bengal Act No. IX of 1880 (the Cess Act, 1880).

Preamble. WHEREAS it is expedient to amend Bengal Act No. IX of 1880 (the Cess Act, 1880); It is hereby enacted as follows:—

Amendment 1. In the said Act, after section 64, the following sections shall be

[a] Under s. 3 of the Scheduled Districts Act, 1874, this Act has been declared to be in force in the districts of Hazáribágh, Lohardugga and Manbhoom and Pergunnah Dhalbhoom—see *infra*, p. 672.

of Bengal Act IX of 1880 inserted, and shall be deemed to have been so inserted on and from the date on which such Act came into force :—

64A, 64B ~~361A.~~ [See Vol. II.]

ACT No. XIII OF 1881.

Received the Governor General's assent on the 11th March, 1881.

An Act to provide for the better government of Fort William.

Preamble. WHEREAS it is expedient to give power to make rules for the better government of Fort William in Bengal and to provide for the establishment of a Court within the said Fort for the trial of persons charged with breaches of such rules; it is hereby enacted as follows:—

Short title. 1. This Act may be called the Fort William Act, 1881;

Commencement. and it shall come into force on the first day of April 1881.

But nothing herein contained shall be deemed to confer jurisdiction over any persons (other than artificers, labourers, sutlers and followers) to whom the Army Discipline and Regulation Act, 1879, or the Indian Articles of War, 1869, is or are applicable. 42 & 43 Vic. c. 33. V of 1869.

"The Fort." 2.[a] The Governor General in Council may, from time to time, by notification in the Gazette of India, define, for the purposes of this Act, the limits of Fort William in Bengal; and in this Act the expression "the Fort" means the area so defined.

Commander-in-Chief may make rules. 3. The Commander-in-Chief in India may, from time to time, with the sanction of the Governor General in Council, make rules, to be in force within the Fort, in regard to the matters specified in the schedule hereto annexed and other matters of a like nature, and may by such rules prescribe, as penalties for the infringement thereof, fine which may extend to fifty rupees, or imprisonment for a term which may extend to four days, or both.

When a sentence of fine is passed under any such rule, the term for which the Court directs the offender to be imprisoned in default of payment of such fine may extend to, and shall not exceed, four days.

When any rule is made under this section, a copy thereof, in English and such other languages as the Governor General in Council may from time to time direct, shall be exhibited in such conspicuous places within the Fort as the officer commanding the Fort may from time to time direct.

Governor General in Council may invest officer with power to try breaches of rules. 4. The Governor General in Council may invest any commissioned officer in Her Majesty's Army with power to try persons charged with any infringement of the rules made under section 3.

[a] Under s. 2 the limits of the Fort have been defined in Notification No. 498, dated 12th September, 1884,—see *Gazette of India*, 13th idem, Pt. I, p. 326.

The officer so invested is hereinafter called the Fort Magistrate.

Procedure to be followed.

5. In all cases under this Act, the Fort Magistrate shall, except as herein otherwise provided, exercise within the Fort the powers, and, as nearly as may be, follow the procedure, conferred on, and prescribed for, a Presidency Magistrate by the Presidency Magistrates Act, 1877[a]; and, subject to the power conferred by the High Courts Criminal Procedure Act, 1875, section 147[a], every finding, sentence or order of such Magistrate under this Act shall be final.

IV of 1877.

X of 1875.

Power to arrest without warrant.

6. Any police-officer, or any other person empowered in this behalf by the Governor General in Council, by name or as a member of a specified class, may arrest without warrant any person who in his sight commits an offence punishable under this Act.

Power to police-officer to release on bail.

Every person so arrested shall be taken to the police-station within the Fort, and shall be detained there until he gives to the police-officer in charge of such station a bond, with or without sureties, as such officer may require, for a sum not exceeding one hundred rupees, to appear before the Fort Magistrate at a time to be specified in such bond, or until he can be brought before such Magistrate.

Jurisdiction of Presidency Magistrates and prosecutions under other laws saved.

7. Nothing in this Act or in any rule made hereunder shall affect the jurisdiction of the Magistrates appointed under the Presidency Magistrates Act, 1877[b], or shall prevent any person from being prosecuted under any other law for any offence punishable under this Act, or from being liable to any other punishment than is provided for such offence by this Act:

IV of 1877.

Provided that no person shall be punished twice for the same offence.

Limitation of time for prosecutions under Act.

8. No prosecution for any offence under this Act shall be commenced after the expiration of three months next after such offence has been committed.

Validation of penalties heretofore imposed by Garrison Quarter Master.

9. All penalties heretofore imposed by the Garrison Quarter Master of the Fort for offences against garrison rules and regulations shall be deemed to have been imposed in accordance with law.

THE SCHEDULE.

(*See section 3.*)

(1) Throwing dirt or rubbish of any description into the drains or roads or anywhere but in the appointed places.

(2) Removing night-soil without a covering or at unauthorised hours.

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[a] This Presidency Magistrates Act, IV of 1877 (except s. 57) and the High Courts Criminal Procedure Act, X of 1875 (except s. 144 and part of s. 146), have been repealed by Act X of 1882, s. 2; but see also s. 3 of that Act.

a now read the Code of Criminal Procedure 1882 (see S. 3 of that Code); but see also S. 57 of the Presy. Magts. Act IV of 1877, which is unrepealed.

b-b see now the Code of Criminal Procedure, 1882, s. 526

(c-c) now read "Presidency Magistrates."

(3) Camp-followers, servants and others not keeping the godowns they live in clean.

(4) Performing offices of nature in other than the appointed places.

(5) Bathing, or washing clothes or animals, in the *cunette* or other unauthorised places.

(6) Selling unwholesome articles of food, grain or drinks.

(7) Adulterating food or drinks.

(8) Making evacuations in unauthorised places.

(9) Rash or negligent driving.

(10) Picketing, training or breaking in animals.

(11) Causing obstruction by vehicles on the road.

(12) Exposing or hawking articles for sale about the roads and barracks, or within the Fort, without a Fort pass.

(13) Beating drums or tom-toms.

(14) Damaging lamps, posts, masonry or other Government property in any part of the Fort.

(15) Disorderly behaviour in the public thoroughfares.

(16) Gambling.

(17) Spitting pán on any of the public staircases, gateways, walls and verandahs, or defacing in any way the walls of barracks, buildings or gate-ways.

(18) Throwing slops into the drains.

(19) Washing cooking-pots at the water taps and wasting water.

(20) Cooking in unauthorised places.

(21) Hanging clothes to dry on the guns or masonry-work.

(22) Laying out clothes, accoutrements or stable-bedding after the authorised hours.

(23) Destroying the trees, bushes or plants, or climbing trees.

(24) Servants smoking hookas in their masters' quarters or cook-houses, or keeping such quarters or cook-houses in an insanitary state.

(25) Trespassing on parade-grounds, or making footpaths across the grass-plots.

(26) Being drunk and incapable.

(27) Fighting, quarrelling and creating a disturbance, or making unnecessary noise of any kind.

(28) Affixing bills and papers on any walls in the Fort.

(29) Cutting grass or interfering with the grass-contractor.

(30) Declining to show a tin pass when called upon to do so.

(31) Being found in the garrison without a tin pass, or being in possession of a ticket belonging to another.

(32) Driving vehicles without lights or with insufficiently-greased wheels.

(33) Swinging or sitting on the chain-fences.

(34) Interfering in any way with the guns, carriages or piles of shot and shell on the works, or with the packed ordnance.

(35) Mounting the ramparts or parapets or entering the embrasures without authority.

(36) Smuggling liquor into the Fort.

(37) Burning stable-litter or lighting fires except in authorized places and at authorized hours.

(38) Carrying lights except in closed lanterns, or letting off fireworks.

(39) Removing property of any kind or description from the Fort without written authority.

(40) Allowing animals of any sort to stray into the Fort, or to graze within the same.

(41) Slaughtering animals or exposing carcasses or offal within the Fort.

(42) Keeping dogs or poultry in unauthorized places.

(43) Buying, selling or receiving any portion of a soldier's kit.

(44) Disobedience of lawful authority in failing to attend to authorized instructions of the police or of the several sentries posted throughout the Fort.

(45) Occupying buildings of any kind without proper allotment.

ACT No. XXV OF 1881.

Received the Governor General's assent on the 27th October, 1881.

An Act to amend the law in force in the Mahál of Bánki.

Preamble.

WHEREAS it has been determined to annex the territory comprised in the mahál of Bánki to the district of Cuttack:

And whereas the said territory forms portion of a scheduled district under the Scheduled Districts Act, 1874:

XIV of 1874.

And whereas it is expedient that the law in force in the said territory should, on such annexation, be the same as the law in force in the district of Cuttack, and that the said territory should cease to be a portion of a scheduled district:

It is hereby enacted as follows:—

Short title.

1. This Act may be called the Bánki Laws Act, 1881.

Laws of Cuttack to apply.

2. All enactments which shall, on the first day of April, 1882, be in force in the district of Cuttack and not in the said territory shall be deemed to come into force in the said territory on that day:

Other law repealed.

And all enactments which shall on that day be in force in the said terri-

tory and not in the district of Cuttack shall be deemed to be repealed on and from that day in the said territory.

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3. ~~All proceedings commenced before any authority in the said territory~~ before the said first day of April, 1882, and still pending on the said day, shall be disposed of by such authority as the Local Government may direct; and, save as aforesaid, shall be carried on as if this Act had not been passed.

Territory to cease to be a scheduled district

4. On and from the said first day of April, 1882, the said territory shall cease to be a portion of a scheduled district; and in Part III of the first schedule to the said Scheduled Districts Act, 1874, for the words "Mahál of Angúl and Bánki," the words "Mahál of Angul" shall be substituted; XIV of 1874.

Amendment of certain Bengal Regulations.

~~and in the following Bengal Regulations, namely, Regulation XII of~~ 1805, section 36, Regulation XIII of 1805, section 13, and Regulation XI of 1816, section 2, the words "Ditto Bánki" shall be repealed.

THE INLAND EMIGRATION ACT, 1882.

CONTENTS. For Act I of 1882 See the revised edition, as modified up to 1.5.93 in Supplement

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ACT No. I OF 1882 [a]

Received the Governor General's assent on the 6th January, 1882.

An Act to amend the law relating to Emigration to the Labour-districts of Bengal and Assam.

Preamble. WHEREAS it is expedient to amend the law relating to the emigration of natives of India to the districts of Chittagong, the Chittagong Hill Tracts, Lakhimpúr, Sibságar, Nowgong, Darráng, Kámrúp, Goálpára, Khási Hills, Cachar and Sylhet; it is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title. 1. This Act may be called the Inland Emigration Act, 1882.

Local extent. It extends to the territories respectively administered by the Lieutenant-Governors of Bengal and the North-Western Provinces and the Chief Commissioners of Oudh and Assam:

Commencement. And it shall come into force at once.

Repeal of enactments. 2. Bengal Act No. VII of 1873 (*to amend the law relating to the emigration of labourers to the districts of Assam, Cachar and Sylhet and to regulate contract-labour and service*), Bengal Act No. II of 1878 (*to extend the provisions of Bengal Act VII of 1873 to the district of Chittagong and to the Chittagong Hill Tracts*) and Regulation No. IV of 1877 (*a Regulation for extending to the Chief Commissionership of Assam Chapter XIII of Bengal Act VII of 1873*) are hereby repealed.

All contracts entered into, rules and appointments made, orders and notifications published and licenses granted under the said Bengal Act No. VII of 1873, or any of the Acts thereby repealed, and now in force, shall be deemed to have been respectively entered into, made, published and granted under this Act.

Interpretation-clause. 3. In this Act, unless there is something repugnant in the subject or context,—

"Labour-districts": the expression "the labour-districts" means the districts of Chittagong,

[a] This Act has been declared in force in the Santhal Pergunnahs by Reg III of 1872, s. 3, as amended by Reg. III of 1886, s. 2—see *infra*, p. 606.

the Chittagong Hill Tracts, Lakhimpúr, Sibságar, Nowgong, Darrang, Kámrúp, Goálpára, Khási Hills, Cachar and Sylhet; and the expression "a labour-district" means any one of such districts:

"Magistrate" means a Magistrate of a district, Subdivisional Magistrate, and any other person appointed, by name or by virtue of his office, by the Local Government to perform the functions of a Magistrate under this Act: "Magistrate":

"Superintendent", "Registering-officer", "Inspector" and "Assistant Inspector" mean respectively a Superintendent of Emigration, a Registering-officer, an Inspector of Labourers and an Assistant Inspector of Labourers appointed under this Act: "Superintendent", "Registering-officer", "Inspector" and "Assistant Inspector".

"Contractor", "sub-contractor", "recruiter" and "local agent" mean respectively a contractor, a sub-contractor, a recruiter and a local agent licensed under this Act: "Contractor", "sub-contractor", recruiter" and "local agent":

"Labour-contract" means a contract entered into in accordance with the provisions of this Act to labour for hire in a labour-district, otherwise than as a domestic servant: "Labour-contract":

"Labourer" means any person bound by a contract under the provisions of the said Bengal Act No. VII of 1873[a] or by a labour-contract under the provisions of this Act. And it also includes any person registered under section 32 or section 66 as a labourer: "Labourer":

"Estate" means the land upon which any labourers or more than fifty other persons have been engaged to labour: "Estate":

"Employer" means the chief person for the time being in charge of any estate upon which labourers or more than fifty other persons are employed: "Employer":

"Emigrate" denotes the departure of any native of India of the age of sixteen years or upwards (other than a native of a labour-district) from any part of the territories administered by the Lieutenant-Governor of Bengal, not being a labour-district, or from the territories respectively administered by the Lieutenant-Governor of the North-Western Provinces and the Chief Commissioner of Oudh, for the purpose of labouring for hire in a labour-district otherwise than as a domestic servant: "Emigrate":

"Dependent" means any woman (not being a labourer), any child, and any aged or incapacitated relative or friend accompanying any labourer with the consent of a contractor, sub-contractor, recruiter, local agent or garden-sardár: "Dependent":

"Vessel" includes anything made for the conveyance by water of human beings or property: "Vessel":

[a] Ben. Act VII of 1873 has been repealed by s. 2 of this Act.

"Master": "Master" means the person for the time being in charge of a vessel:

"Writing" and written". "Writing" and "written" include "printing" and "lithography."

Words to be understood as defined in Contract Act

And all words defined in the Indian Contract Act, 1872, and used in this Act, shall have the meanings respectively assigned to them by that Act. IX of 1872.

Power to exempt labour-district.

4. The Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, declare that any labour-district within the territories administered by such Government shall, from a day specified in such notification, cease to be subject to all the provisions or any specified provision of this Act; and from such day such labour-district shall cease to be subject to the provisions of this Act or to the provisions so specified, as the case may be.

Local Government may prohibit emigration to any labour-district or part thereof.

5. The Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, prohibit, from a day specified in such notification, all natives of India, or any specified class of such natives, from emigrating from the whole or any specified part of the territories under its administration to any labour-district or to any specified portion of any such district.

The Local Government may with the like sanction in like manner vary or cancel any such notification.

Notification under sections 4 and 5 not to affect prior acts, &c.

6. The publication of a notification under section 4 or section 5 shall not affect any act done, offence committed or proceedings commenced before such publication.

Saving of free emigration and of ordinary contract law.

7. Save as provided by section 5, nothing in this Act shall be deemed to prohibit any native of India from emigrating to, or entering into a contract to labour in, a labour-district otherwise than under the provisions of this Act.

Appointment of officers.

8. The Local Government may appoint, either by name or by virtue of their office, so many persons as it thinks necessary to be Superintendents of Emigration, Registering-officers, Embarkation Agents, Debarkation Agents, Inspectors of Labourers, Assistant Inspectors of Labourers and Medical Inspectors under this Act respectively, and, with respect to any such officer, may, subject to the control of the Governor General in Council, declare the local area situate in the territories subject to its administration within which he shall exercise the powers and perform the duties conferred and imposed upon him by this Act or any rule made hereunder.

The Local Government may suspend or remove any persons whom it so appoints.

Every person so appointed shall be deemed a public servant within the meaning of the Indian Penal Code. XLV of 1860.

CHAPTER II.

LABOUR-CONTRACTS GENERALLY.

Essentials of labour-contract.

9. Every labour-contract shall be in writing, and shall be executed in duplicate on substantial paper. Every such contract shall specify—

(*a*) the names of the labourer and his employer;

(*b*) the term for which the labourer is to labour;

(*c*) his monthly wages in money and the price at which rice is to be supplied to him;

(*d*) the labour-district in which, and, if the labourer so request, the estate on which, he is to labour.

Every such contract shall be in the form prescribed in the schedule hereto annexed.

No such contract shall be made for a term exceeding five years, commencing from the date of its execution; or shall stipulate for a less rate of monthly wages for a completed daily task regulated in accordance with the provisions of this Act than five rupees in the case of a man and four rupees in the case of a woman for the first three years of the term of the contract, or six rupees in the case of a man and five rupees in the case of a woman for the fourth and fifth years of such term.

No contract made in contravention of, or not in accordance with, the provisions of this section shall be enforceable under this Act as a labour-contract against the labourer entering into it.

If contract does not specify estate, labourer to be deemed to have contracted to labour on any estate in charge of employer and situate in labour-district.

10. Unless the labour-contract specifies the particular estate on which the labourer is to labour, the labourer shall be deemed to have contracted to labour on any estate in charge of the employer for whom he has contracted to labour, and situate in the labour-district specified in the contract:

Provided that no labourer shall, without his own consent, be separated from his dependents (if any) or from any other labourer who is the wife, husband, son or daughter of such labourer.

Persons of sixteen years of age may contract to emigrate.

IX of 1872.

11. Notwithstanding anything to the contrary in the Indian Contract Act, 1872, it shall be lawful for any person of the age of sixteen years or upwards to enter into a labour-contract.

CHAPTER III.

RECRUITING BY CONTRACTORS, SUB-CONTRACTORS AND RECRUITERS.

A.—Contractors and Sub-contractors.

Superintendent may license contractors.

12. Any Superintendent specially empowered in this behalf by the Local Government may grant to such persons as he thinks fit licenses to be contractors within the whole or any part of the local area for which such Superintendent has been appointed. He may also, on the application of any contractor, grant to such persons as he thinks fit licenses to be sub-contractors on behalf of such contractor, within the whole or any part of the local area for which such contractor is licensed.

Superintendent may license sub-contractors.

Form of, and fee for, contractors' and sub-contractors' licenses.

13. Every license to a contractor or sub-contractor shall be in such form, and subject to the payment of such fee, not exceeding, in the case of a contractor, one hundred rupees, and, in the case of a sub-contractor, fifty rupees, as the Local Government may by rule prescribe.

Period for which contractors' and sub-contractors' license to remain in force

14. No such license shall be granted for a longer period than one year from the date thereof, and, if the licensee fails to comply with any of the provisions of this Act or the rules made hereunder, or is guilty of any other misconduct, any such license may at any time be cancelled by the Superintendent who granted the same.

Appeal against order cancelling license.

A contractor or sub-contractor may, within one month from the date of any order of a Superintendent cancelling his license, appeal against such order to the Local Government.

The order of the Local Government on such appeal shall be final.

Duties of contractors.

15. Every contractor, in addition to the special duties herein assigned to him, shall afford such information to the Superintendent and furnish him with such returns and reports as he may, subject to any rules which may be framed by the Local Government in this behalf, require.

Sub-contractor may be licensed to represent more than one contractor

16. A sub-contractor may be licensed to act on behalf of more than one contractor:

Provided that he obtains a separate license in the case of each contractor for whom he desires to act.

Contractor or sub-contractor may act as recruiter

17. A contractor or sub-contractor may act as a recruiter, and shall, when so acting, be subject to all the provisions hereinafter contained relating to recruiters.

Liability of contractors for sub-con-

18. Every contractor shall be liable for the acts and defaults as a sub-contractor or recruiter of any person licensed to be a sub-contractor or recruiter

on his behalf, and shall be bound to make good all payments which, under this Act or any rule made hereunder, any such person is ordered to make. tractors' and recruiters' acts and defaults.

The Superintendent may cancel the license of any contractor whenever the license of any person so licensed on his behalf is liable to be cancelled under this Act.

Nothing in this section shall be deemed to render a contractor criminally liable for any act or default on the part of any person licensed to be a sub-contractor or recruiter on his behalf.

19. Every contractor shall establish and maintain, at such places as the Local Government may direct, suitable depôts for the reception and lodging, previous to their despatch to the labour-districts, of labourers engaged by him or by sub-contractors or recruiters licensed to act on his behalf, and shall provide at his own expense all necessary food, clothing and medical treatment for such labourers during their stay at such depôts. Contractor to establish depôts.

20. No such depôt shall be used for the reception and lodging of labourers until it has been inspected and approved of by the Superintendent and the Medical Inspector. Every such depôt shall be under the supervision of the Superintendent, the Magistrate of the district or such other officer as the Local Government may appoint in this behalf, and shall be open at all times to inspection by the Superintendent, the Magistrate of the district or such officer, and by the Medical Inspector. Inspection and supervision of depôts.

Whenever the Superintendent considers that any such depôt is unhealthy, or has become unsuitable for the purpose for which it was established, he may by order in writing prohibit the using of such depôt for the reception and lodging of labourers.

21. In addition to the depôts hereinbefore provided for, the Local Government may establish a separate hospital-depôt for the reception of labourers suffering from any dangerously infectious or contagious disease. Establishment of hospital-depôts.

22. Whenever any such hospital-depôt is established by any Local Government, such Government may require any contractor having a depôt in the neighbourhood of such hospital-depôt to contribute to the expense of the establishment and maintenance of such hospital-depôt such reasonable sum as it may direct. Such sum may be recovered as an arrear of land-revenue due from any contractor so required. Contractor to contribute towards establishment and maintenance of hospital-depôt.

Every hospital-depôt so established shall be under the charge of a medical officer appointed by the Local Government. Any Medical Inspector may direct the transfer of any labourer from a depôt established within the local

limits of his jurisdiction to a hospital-depôt established within such local limits.

B.—Recruiters.

Superintendent may license recruiters.

23. Any Superintendent empowered in this behalf by the Local Government may, on the application of any contractor or of any sub-contractor acting on behalf of a contractor, grant to such persons as he thinks fit licenses to be recruiters on behalf of such contractor within the whole or any specified part of the local area for which such contractor has been licensed.

Form of, and fee for, recruiter's license.

24. Every license to a recruiter shall be in such form and subject to the payment of such fee, not exceeding sixteen rupees, as the Local Government may by rule prescribe.

Period for which license is granted.

25. No such license shall be granted for a longer period than one year from the date thereof; and, if the licensee fails to comply with any of the provisions of this Act or the rules made hereunder, or is guilty of any other misconduct, any such license may be cancelled by the Superintendent who granted the same.

Recruiter must hold a certificate.

26. Every recruiter shall hold a certificate in writing authorizing him to act as such and signed by the contractor or sub-contractor on whose application he was licensed.

Countersignature of recruiter's license.

27. No recruiter shall in any local area engage or attempt to engage any person as a labourer unless such recruiter's license bears the countersignature of a Magistrate having jurisdiction throughout such local area.

No such Magistrate shall countersign a recruiter's license unless and until he has satisfied himself by such inquiry as he thinks fit that the licensee is not by character or from any other cause unfitted to be a recruiter under this Act, that he holds the certificate mentioned in section 26, and that sufficient and proper accommodation has been provided in a suitable place and is available for such labourers, or persons intending to become labourers, as may be collected by such recruiter pending their removal to a depôt.

Magistrate to supervise accommodation.

28. Every Magistrate shall have, for the supervision, inspection and regulation of the place situate within the local limits of his jurisdiction where such accommodation is provided, the same powers as are by this Act conferred on the Superintendent in respect of depôts.

Any Magistrate of a district or division of a district may authorize any Magistrate subordinate to him, or any officer of police above the rank of sub-inspector, to visit and inspect such place at any time; and all recruiters or other persons in charge of such place shall afford to Subordinate Magistrates

and officers of police so authorized every facility for making such visits and inspections.

Magistrate may cancel countersignature in certain cases.

29. If any Magistrate who has countersigned a recruiter's license afterwards finds reason to think that the licensee is by character or from any other cause unfitted to be a recruiter under this Act, or that the accommodation provided under section 27 has become insufficient or improper or has ceased to be available, or that the place in which it is provided has become unsuitable, he may require the licensee to produce his license and may cancel his countersignature thereon, or he may impound the license and send it for cancellation to the Superintendent who granted the same.

Notice to Superintendent of refusal to countersign or cancellation.

Every Magistrate refusing to countersign a recruiter's license or cancelling his countersignature thereon shall at once report such refusal or cancellation and the grounds thereof to the Superintendent who granted such license.

C.—Procedure before arrival at Depôt.

Intending labourer to be taken for examination to medical officer.

30. Every recruiter who desires to engage any person as a labourer shall appear with such person before such medical officer as the Local Government may appoint to examine such persons within the local limits of the jurisdiction of the Magistrate by whom such recruiter's license was countersigned, or, if no such officer has been appointed, before such medical officer as the Registering-officer, before whom such person is taken for registration as hereinafter provided, may direct.

The medical officer shall thereupon examine such person, and shall, if satisfied that he is in a fit state of health and able in point of physical condition to proceed to the labour-district in which he intends to labour, give him a certificate to that effect.

If certified to be fit, intending labourer to be brought before Registering-officer.

31. Every person who obtains a certificate under section 30, together with any persons about to proceed to a labour-district as his dependents, shall thereupon be brought by the recruiter before the Registering-officer having jurisdiction within the local area for which such recruiter is licensed. The recruiter shall at the same time produce and show his license to such Registering-officer.

Intending labourer to be examined by Registering-officer.

32. The Registering-officer shall thereupon inspect the certificate given under section 30, and the license of the recruiter, and, if he finds that such certificate has been duly given and that the recruiter is duly licensed, shall then examine such person, with reference to his intended labour-contract, and explain the same to him.

Intending

If it appears that such person is competent to enter into such contract,

labourer to be registered.

and understands the same as regards the locality, period and nature of the service, and the rate of wages and the price at which rice is to be supplied to him, that the terms thereof are in accordance with law, that he has not been induced to agree to enter thereinto by any coercion, undue influence, fraud, misrepresentation or mistake, and that he is willing to fulfil the same, the Registering-officer shall register in a book to be kept for the purpose such particulars regarding him and the persons (if any) whom he wishes to have registered as his dependents as the Local Government may by rule prescribe; and the labourer and his dependents (if any) shall thereupon be deemed to be registered under this Act.

Copy of registration to be given to labourer.

33. The Registering-officer shall furnish to the person so registered a certified copy of such particulars written on substantial paper.

Copy of registration and medical certificate to be sent to Superintendent.

34. Every officer registering any person under section 32 shall forthwith forward a certified copy of such particulars and the original certificate of the medical officer regarding him to the Superintendent having jurisdiction over the depôt to which such person is to proceed.

Fee for registration.

35. For every such person produced before a Registering-officer for the purpose of being registered as a labourer the recruiter shall pay to the officer such fee not exceeding one rupee as the Local Government may by rule direct.

Recruiter when to remove person to depôt.

36. No recruiter shall remove or attempt to remove any person to a depôt, or induce or attempt to induce him to go to a depôt or to leave the local limits of the jurisdiction of the Registering-officer before whom such person ought to be brought under section 31, or aid or attempt to aid him in going to a depôt, or leaving any such local limits, unless and until such person has been registered under section 32.

Conveyance of labourer to depôt.

37. Every labourer shall, after he has been registered under section 32, be conveyed with all convenient despatch by the recruiter by whom he has been engaged to the depôt established by the contractor on whose behalf such recruiter has been licensed.

Recruiter to accompany labourer or deputy person approved by Registering-officer.

All labourers shall, while proceeding to the depôt, be accompanied throughout the journey either by the recruiter himself, or by a competent person deputed by him with the approval of the Registering-officer by whom such labourers have been registered. The Registering-officer shall give to the person so deputed a certificate under his signature stating that he has been deputed for the journey to the depôt.

Recruiter must provide food and lodging for labourers on journey

38. Every recruiter or person deputed by him as aforesaid shall, throughout the journey to the depôt, provide such labourer and his dependents (if any) with proper and sufficient food and lodging.

D.—Procedure at Contractors' Depôts.

Contractor to report arrival of labourer.

39. Within twenty-four hours after a labourer arrives at a depôt, the contractor by whom such depôt is maintained, or the person in charge thereof, shall give to the Superintendent, within the local limits of whose jurisdiction such depôt is situate, a notice in writing of such arrival, which notice shall be in such form, and shall contain such particulars, as the Local Government may by rule prescribe.

Duties of Medical Inspector.

40. The Medical Inspector shall, as soon as may be after the labourer arrives at the depôt, examine such labourer and his dependents (if any) to ascertain that they are in a fit state of health to undertake the journey to the labour-district to which they intend to proceed.

The Medical Inspector shall give a certificate to the Superintendent stating whether he is or is not satisfied of the fitness of the labourer and his dependents (if any) to undertake such journey.

If certificate of fitness granted, labourer to enter into labour-contract.

41. If the Medical Inspector gives a certificate of fitness under section 40 with respect to any labourer, and in the opinion of the Superintendent there is no valid reason why such labourer should not enter into a labour-contract, such labourer and the employer with whom he intends to contract, or the agent of such employer, shall, within thirty days after the arrival of the labourer at the depôt, execute a labour-contract in the presence of the Superintendent.

Contract to be explained to labourer by Superintendent.

42. Before the labourer executes such contract the Superintendent shall personally explain it to him, and shall, after the same has been executed by such labourer and his employer, or the agent of such employer, attest such contract and certify at the foot thereof that he has personally explained the same to the labourer.

Abstract to be made of contract, and copies of contract given to labourer and employer.

An abstract of every such contract shall be entered in a register to be kept by the Superintendent for the purpose; and, after such abstract has been so entered, one copy of the contract shall be given to the labourer and the other to his employer or his employer's agent.

Power to cancel contract and order payment of expenses home of labourer in certain cases.

43. In the following cases (namely) :—

(*a*) where the Medical Inspector, on making the examination required by section 40, or at any subsequent time during the stay at the depôt of any labourer, finds that such labourer is or has become unfit to undertake the journey to the labour-district to which he intends to proceed, and the Superintendent considers that such labourer has not dishonestly represented himself as fit to undertake such journey, or

(*b*) where the Superintendent finds that any such irregularity has occurred in the recruitment or treatment by the recruiter of any such labourer as makes it just to refuse to permit a labour-contract to be executed or to rescind such contract if executed, or

(*c*) where the contractor on whose behalf or by whom the labourer has been registered does not within thirty days after the arrival of such labourer at the depôt tender to him a labour-contract for execution under section 41, or the employer or his agent refuses or neglects to execute such contract as required by that section,

the Superintendent may cancel the labour-contract executed by such labourer, and in that case, or if no labour-contract has been executed, may order the contractor at once to pay such labourer such reasonable sum as is necessary to enable him to return to the place at which he was registered, and such further sum by way of compensation as the Superintendent thinks reasonable; and may take any other steps he thinks necessary for the conveyance of such labourer to such place.

Labourer when to be lodged, &c., at depôt till he can return home.

44. Any labourer who from his state of health is, in the opinion of the Medical Inspector, unfit to undertake such return-journey, shall be entitled to be fed, lodged, clothed and (if necessary) medically treated at the depôt at the expense of the contractor by whom such depôt is maintained, until he is reported by the Medical Inspector to be fit to undertake such return-journey.

Contractor omitting to provide food, &c., for labourer.

If such contractor negligently or wilfully omits to provide food, lodging, clothing or medical treatment for such labourer, the Superintendent may order the contractor at once to pay such reasonable sum as is necessary to provide such food, lodging, clothing or medical treatment.

Like provisions in case of dependents and relatives.

45. When an order is made under section 43 with reference to any labourer, any person registered as his dependent, or any labourer being the wife, husband, son or daughter of such labourer, may claim—

(*a*) to be conveyed at the expense of the contractor with such labourer to the place at which he was registered, and

(*b*) if such labourer is unable to travel, to be fed, lodged, clothed and (if necessary) medically treated in the depôt at the expense of the contractor until such labourer is able to travel;

and the Superintendent may include such expenses in an order made under section 43 or section 44 with respect to such labourer.

Compensation to labourer for ill-treat-

46. If, upon the arrival of any labourer at a depôt, it appears that during the journey to the depôt such labourer or any person registered as his depend-

ent has suffered any ill-treatment at the hands of the recruiter or person deputed by him to accompany such labourer, or that such recruiter or such person has failed to provide the labourer or any person registered as his dependent with proper and sufficient food and lodging, the Superintendent may order the contractor by whom such depôt is maintained to pay such labourer a reasonable sum by way of compensation. ment on the journey.

47. If the Medical Inspector has reason to think that any person registered as the dependent of a labourer is not in a fit state of health to undertake the journey to the labour-district to which the labourer whose dependent he is intends to proceed, the Medical Inspector shall so certify to the Superintendent to whom notice of the arrival of such labourer was given. The provisions of sections 43 and 44 shall thereupon apply to such dependent as if he were a labourer, and the Superintendent may make such orders regarding him as he may make under those sections with regard to a labourer. Procedure when dependent declared unfit to proceed to labour-district.

48. The labourer to whom such dependent is attached shall thereupon be entitled, if he or she so wishes, and if he or she be the husband, wife, son or daughter of such dependent, to receive from the contractor at whose depôt he or she arrived such reasonable sum as is necessary to enable him or her to return to the place where he or she was registered. If such labourer so return, then any other persons registered as his or her dependents, and any other labourer being the wife, husband, son or daughter of such labourer, shall also be entitled to receive a like sum from such contractor. Labourer and relatives entitled to be returned with dependent.

49. On failure of the contractor for twenty-four hours to comply with an order of the Superintendent to pay any sum ordered to be paid under section 43, section 44, section 45, section 46, section 47 or section 48, the Superintendent may pay the same to or on behalf of the labourer or dependent. Failure of contractor to pay sums ordered to be paid under section 43, 44, 45, 46, 47 or 48.

Every sum so paid shall be recoverable from the contractor with interest thereon at the rate of twelve per cent. per annum from the date of payment.

No further proof shall be required by any Court in any such case than that the Superintendent gave the contractor an order to pay such sum, and that the contractor for twenty-four hours failed to comply with such order.

50. All labourers despatched from a contractor's depôt to a labour-district shall during their journey be accompanied by a person appointed by such contractor. Such person shall take with him a way-bill in such form and containing such particulars and instructions as the Local Government may prescribe. Provisions for way-bill.

He shall also present such way-bill at all such places and to all such

officers as may be thereupon indicated: and shall carry out all instructions contained therein for his guidance.

CHAPTER IV.

Recruiting by Garden-sardárs and Local Agents.

A.—Garden-sardárs.

Employer may grant certificate to garden-sardár.

51. Any employer may grant to any person a certificate authorizing him, within such local area as may be specified in such certificate, to enter into labour-contracts with persons desirous of becoming labourers upon any estate of which such employer is in charge.

Every person to whom such certificate has been granted is hereinafter called a garden-sardár.

If any labourer is granted a certificate under this section, his employment as a garden-sardár shall be deemed to be employment under his labour-contract.

Form and particulars to be contained in such certificate.

52. Every such certificate shall be in such form and shall contain such particulars as the Local Government of the territories in which it is granted may prescribe in this behalf.

Any employer granting a certificate to a garden-sardár may, before such certificate is accepted and signed as hereinafter provided, specify therein the name of the local agent (if any) to whom such garden-sardár is to report himself for orders, and the time within which he is to return to such employer, and any other instructions for his conduct that he may think proper.

Certificate to be accepted and signed in presence of Inspector or Magistrate.

53. Every such certificate shall be accepted and signed by the garden-sardár in the presence of the Inspector or a Magistrate having jurisdiction over the place where the employer granting such certificate resides.

Inspector or Magistrate to countersign certificate.

54. Such Inspector or Magistrate shall inquire into the facts stated in such certificate; and upon being satisfied of the truth of the statement shall, unless it appears to him that the person so accepting and signing such certificate is by character or from any other cause unfitted to be a garden-sardár, countersign and date such certificate.

Provision for grant of fresh certificate.

55. On the application of the employer by whom any certificate so countersigned has been granted to a garden-sardár, such Inspector or Magistrate may, without requiring the appearance of the garden-sardár or making the inquiry prescribed by section 54, countersign a fresh certificate to be granted by such employer to such garden-sardár in renewal of any existing certificate.

Every such fresh certificate shall be forwarded by the Inspector or Magistrate countersigning it to the Magistrate of the district in which the garden-sardár to whom it is granted is employed; and such sardár shall, on receiving notice from such Magistrate, appear before him and accept and sign such fresh certificate in his presence.

Such fresh certificate to be forwarded to Magistrate of district where garden-sardár is employed and to be accepted and signed by garden-sardár.

56. No certificate granted to a garden-sardár shall come into force unless and until it has been accepted and signed by the garden-sardár and countersigned by the Inspector or Magistrate, and no such certificate shall continue in force for a longer period than one year from the date of its countersignature.

Certificate when to come into force.

57. Every garden-sardár shall provide sufficient and proper accommodation in a suitable place for such labourers, or persons intending to become labourers, as may be collected by him pending their removal to a labour-district.

Accommodation to be provided by garden-sardár.

The Magistrate of a district or of a division of a district, or a Magistrate subordinate to him, or an officer of police above the rank of sub-inspector authorized by him in this behalf, shall visit and inspect such accommodation; and all garden-sardárs or other persons in charge of such places shall afford to such Magistrate, Subordinate Magistrate or officer of police every facility for making such visits and inspections.

In every such place the garden-sardár providing the accommodation shall make such sanitary arrangements as the Local Government may prescribe.

58. Whenever a garden-sardár contravenes any of the provisions of this Act or the rules made hereunder, or is guilty of any other misconduct, any Magistrate, Superintendent or Inspector, within the local limits of whose jurisdiction such garden-sardár is employed, may cancel his certificate.

Certificate may be cancelled in certain cases.

B.—Local Agents.

59. Any Superintendent authorized in this behalf by the Local Government may, on the application of any employer, grant licenses to persons to be local agents for the purpose of representing such employer within such local area and for such period as such employer may desire:

Local agents may be licensed.

Provided that no contractor shall be licensed as a local agent.

60. A local agent may within such local area represent his employer in all matters connected with the engagement of labourers; and shall furnish such information and make such returns as the Local Government may by rule direct.

Powers and duties of local agents.

61. The Superintendent authorized as aforesaid may, on the application of

Local agent

may represent more than one employer.

any employer other than the employer on whose application a local agent has been licensed, make an order in writing permitting such agent to become the local agent of such additional employer within the local area for which he was licensed. The Superintendent making such order shall forthwith send a copy thereof to the Magistrate of the district in which such agent resides; and such Magistrate shall, on the agent's application, insert in his license the name of such additional employer.

Local agent may be specially licensed to contract direct with labourers.

62. Any Superintendent authorized as aforesaid may, with the consent of all the employers of a local agent, grant a special license to such agent, permitting him to engage on behalf of any employer specified in such special license, but without the intervention of a garden-sardár, persons to be labourers.

Every agent when so engaging persons to be labourers may, if he thinks fit, appear with them for registration before a Registering-officer, and require them when so registered to execute a labour-contract, and in such case shall for the purposes of this Act be deemed to be a garden-sardár.

Local agent may prosecute garden-sardar.

63. When any garden-sardár to whom a certificate has been granted under this Act by any employer commits any offence punishable under this Act, any local agent of such employer may prosecute the sardár for such offence.

On what grounds local agent's license may be cancelled.

64. The Magistrate of any district within which a local agent acts as such may by order cancel the license of such local agent if the employer so require, or if it is shown to the satisfaction of such Magistrate that such local agent has—

(*a*) employed any contractor's recruiter to engage on his behalf persons to be labourers; or

(*b*) permitted persons engaged as labourers by or on behalf of any contractor to use the accommodation provided for the persons engaged as labourers by any garden-sardár under such local agent's control; or

(*c*) allowed any garden-sardár under his control to transfer persons engaged as labourers by such sardár to contractors or to their recruiters or to any employer other than the employer by whom such sardár's certificate was granted; or

(*d*) himself taken over persons engaged as labourers by any garden-sardár with intent to despatch them to any employer other than the employer by whom such sardár's certificate was granted.

An appeal shall lie to the Local Government from any order made under this section, clause (*a*), (*b*), (*c*) or (*d*). Such appeal must be presented within three months next after the date of the order, and the decision of the Local Government thereon shall be final.

C.—Procedure to be followed by Garden-sardár.

Garden-sardár and labourer to appear before Registering-officer for registration.

65. Every garden-sardár who desires to engage any person as a labourer shall appear with such person, together with any persons about to proceed to a labour-district as dependents of such person, before the Registering-officer having jurisdiction within the local area specified in the certificate of such sardár.

Registration of persons engaged by garden-sardár.

66. The Registering-officer shall thereupon inspect the certificate of the garden-sardár, and, if he finds that such certificate is in force, shall examine, with reference to the intended labour-contract, the person whom the sardár so desires to engage and explain the contract to such person.

If it appears that such person is competent to enter into such contract, and understands the nature of the same, as regards the locality, period and nature of the service, and the rate of wages and the price at which rice is to be supplied to him, that the terms thereof are in accordance with law, that he has not been induced to agree to enter thereinto by any coercion, undue influence, fraud, misrepresentation or mistake, and that he is willing to fulfil the same, the Registering-officer shall register in a book to be kept for the purpose such particulars regarding him and his dependents (if any) as the Local Government may by rule prescribe; and the labourer and his dependents (if any) shall thereupon be deemed to be registered under this Act.

Medical examination.

67. If it appears to such officer that any such person, or any dependent of such person, is not in a fit state of health to undertake the journey to the labour-district to which he intends to proceed, the officer may, before registering any such person or dependent, if himself a medical man, medically examine such person or dependent, or, if not himself a medical man, send such person or dependent to a medical man for such examination. If upon such examination such person or dependent is declared unfit to undertake the journey to such place, the officer may refuse to register such person or dependent.

Fee to be paid for every labourer produced for registration.

68. For every person appearing before a Registering-officer for the purpose of being registered as a labourer, the garden-sardár who appears with him shall pay to the officer such fee not exceeding one rupee as the Local Government may direct.

Labour-contract to be executed.

69. When any person has been registered under section 66 as a labourer he shall, within fifteen days from the day on which he was so registered, execute a labour-contract with the employer with whom he intends to contract. Such contract shall be signed in the presence of the Registering-officer by such person and, on behalf of the employer, by the garden-sardár who appears with such person before such officer. The officer shall satisfy

himself that the contract is in accordance with any instructions specified in the certificate of the garden-sardár. If the officer is so satisfied, he shall, before the labourer signs the contract, personally explain it to him, and shall, after the same has been executed as aforesaid, attest such contract and certify at the foot thereof that he has personally explained the same to the labourer.

An abstract of every such contract shall be entered in a register to be kept for the purpose by the Registering-officer, and, of the two copies of the contract, one shall then be given to the labourer and the other to the garden-sardár or the local agent.

If any garden-sardár, without reasonable cause, refuses or neglects to execute a contract with a labourer as required by this section within fifteen days from the day on which he was so registered, the Registering-officer may order such sardár to pay to the labourer such reasonable compensation, not exceeding twenty rupees, as such officer thinks fit.

Procedure when employer requires medical examination previous to registration.

70. If the employer of a garden-sardár has in the instructions specified in the certificate of the sardar directed that all labourers engaged by him shall before registration be examined by a competent medical man and certified by him to be in a fit state of health to undertake the journey to, and labour in, the labour-districts to which they intend to proceed, no Registering-officer shall register as a labourer any person appearing before him with such sardár until such certificate from such medical officer as aforesaid has been produced and shown to him.

Medical officer entitled to fee.

71. If the employer has in the instructions specified in the certificate of the garden-sardár directed that such examination shall be made by any medical officer in the service of Government, such officer making the examination shall be entitled to receive from the local agent or sardár such a fee, not exceeding eight annas for each labourer so examined, as the Local Government may fix.

Garden-sardár when to remove labourer to labour-district.

72. Unless and until a person engaged as a labourer has been registered under section 66 no garden-sardár shall remove or attempt to remove him to a labour-district, or induce or attempt to induce him to go to a labour-district, or to leave the local area specified in the certificate of such sardár, or aid or attempt to aid him in proceeding to a labour-district, or in leaving any such local area.

Garden-sardár to accompany labourers or send competent person with them.

73. A garden-sardár shall either himself accompany labourers engaged by him throughout their journey from the place in which the labour-contract was entered into to the labour-district wherein they have contracted to labour, or shall send with them some competent person appointed by him with the

approval of the local agent of his employer; or, if his employer has no local agent, with the approval of the officer by whom such labourers were registered.

When the number of labourers (exclusive of dependents) proceeding on their journey to such labour-district is more than twenty, for every twenty labourers so in excess, or for any number of labourers less than twenty so in excess, one additional garden-sardár or person so appointed by him shall accompany the labourers so proceeding.

No restriction on number of persons engaged by garden-sardár.

74. A garden-sardár may, subject to the instructions specified in his certificate, engage any number of persons as labourers; and, subject to the provisions of section 73, any number of labourers may be despatched at the same time to the labour-districts.

In certain cases garden-sardár may be appointed to accompany labourers not engaged by him.

75. Any garden-sardár may, with the previous consent in writing of the local agent of the employer by whom his certificate was granted, or, if such employer has no local agent, with the previous consent in writing of such employer, be appointed under section 73 as a competent person to accompany labourers other than those engaged by him.

Provision for way-bill.

76. Every garden-sardár or person appointed by him as aforesaid who accompanies labourers to the labour-districts shall present to the officer by whom such labourers have been registered a way-bill in such form and containing such particulars and instructions as the Local Government may prescribe. He shall also present such way-bill at all such places and to all such officers as may be thereupon indicated; and shall carry out all instructions contained therein for his guidance.

Garden-sardár must provide food and lodging for labourers and dependents on journey.

77. Every garden-sardár or person appointed by him as aforesaid who accompanies labourers to the labour-districts shall provide such labourers and their dependents (if any) with proper and sufficient food and lodging throughout the journey.

If such not provided, Magistrate may award compensation or cancel contract.

78. If it appears to any Magistrate, on the complaint of any such labourer at any place on the journey, that he or any person registered as his dependent has suffered any ill-treatment during the journey at the hands of the garden-sardár or person appointed by him accompanying such labourer, or that such sardár or person has failed to provide such labourer or any of his dependents with proper and sufficient food and lodging, or has wilfully abandoned such labourer or any of his dependents, such Magistrate may either order the sardár or person so appointed to pay to such labourer a reasonable sum by way of compensation, or may cancel the labour-contract entered into by such labourer and order such sardár or person to pay to such labourer such reasonable sum as is necessary to enable him with his dependents (if any) to return to the place at which he was registered.

Procedure on failure of garden-sardár to comply with order.

79. On failure for twenty-four hours by any garden-sardár or person appointed by him as aforesaid to comply with an order under section 78 to pay any sum, the Magistrate may pay the same to or on behalf of such labourer.

Every sum so paid shall be recoverable from the employer by whom the certificate of such garden-sardár was granted, or from the local agent of such employer, with interest thereon at the rate of twelve per centum per annum from the date of payment.

No further proof shall be required by any Court in any such case than that the Magistrate gave such garden-sardár or person an order to pay such sum and that such garden-sardár or person for twenty-four hours failed to comply with such order.

Medical inspection of labourers *en route*.

80. Any Magistrate or any Emb[illegible]rkation Agent may, if himself a medical man, examine, and, if not himself a medical man, send for examination by a medical man, any labourer or dependent who, while on the journey to the district to which he intends to proceed, appears to such Magistrate or Agent not to be in a fit state of health to proceed thereto.

Detention and return of labourer declared when *en route* to be unfit to travel.

81. If such labourer or dependent is on such examination declared not to be in a fit state of health to undertake the journey to the labour-district to which he intends to proceed, the Magistrate or Embarkation Agent may order him to be detained at such place as he thinks fit until the labourer or dependent is in a fit state of health to undertake such journey, when he shall either be forwarded to such district or sent back to the place where he was registered, according as the garden-sardár or person appointed by him accompanying such labourer or dependent, or the employer by whom the certificate of such sardár was granted, or his local agent, may direct.

While any labourer or dependent is so detained he shall be entitled to be fed, lodged, clothed and (if necessary) medically treated at the cost of the employer with whom such labourer or the labourer to whom such dependent is attached has contracted to labour.

Dependents of labourer when to be fed, &c.

82. When an order under section 81 has been made with reference to any labourer, any person registered as his dependent, and any labourer being the wife or husband of such labourer, shall be entitled—

(*a*) until such labourer is in a fit state of health to undertake such journey, to be fed, lodged, clothed and (if necessary) medically treated at the place where such labourer is detained and at the cost of the employer with whom such labourer has contracted to labour, and,

(*b*) if such labourer is sent back to the place where he was registered, to be sent back to such place.

When any such order has been made with reference to any dependent, the labourer to whom he is attached shall thereupon, until such dependent is in a fit state of health to undertake the journey to the labour-district, be entitled, if the labourer so wishes, and, if he or she be the husband, wife, son or daughter of such dependent, to be fed, lodged, clothed and (if necessary) medically treated at the place where such dependent is detained and at the cost of the employer with whom such labourer has contracted to labour; and, if such dependent is sent back to the place where he was registered, such labourer shall, if he or she so wishes, and if he or she be the husband, wife, son or daughter of such dependent, be sent back to such place. Labourer to whom dependent is attached when to be fed, &c.

If such labourer is entitled and claims to be so fed, lodged, clothed and (if necessary) medically treated, or to be so sent back, any person registered as his or her dependent, and any other labourer being the wife or husband of such labourer, shall be entitled, as the case may be—

(*a*) to be fed, lodged, clothed and (if necessary) medically treated at the place where such dependent is detained and at the cost of such employer until such dependent is in a fit state of health to undertake the journey to the labour-district, or

(*b*) to be sent back to the place where he or she was registered.

83. If the garden-sardár or person appointed by him accompanying any labourer or dependent fails to provide such labourer or dependent with food, lodging, clothing and medical treatment, or to send him back as required by section 81 or section 82, the Magistrate or Embarkation Agent may order such sardár or person to pay such sum as is necessary to provide such food, lodging, clothing and medical treatment, or to defray the cost of the return journey of such labourer or dependent, as the case may be, to the place where he was registered; and, on failure for twenty-four hours of such sardár or person to comply with such order, he may pay the sum specified in the order to or on behalf of such labourer or dependent. Payment of expenses of detention and return-journey of labourer.

The provisions of section 79 shall, *mutatis mutandis*, apply to the recovery of sums paid by the Magistrate or Embarkation Agent under this section.

84. If any labourer whose labour-contract has been executed by a garden-sardár on behalf of his employer is brought to Calcutta on his way to the district in which he has contracted to labour, any person empowered to act as the agent or representative of such employer may require such labourer to appear before the Superintendent for the cancellation of such contract. If such reasonable sum as is necessary to enable such labourer and his dependents (if any) to return to the place at which he was registered be paid to such labourer in his presence, the Superintendent may declare the contract cancelled, Agent in Calcutta may procure order from Superintendent cancelling the labour-contract on payment of expense of return.

and in that case shall make an endorsement to that effect on the labourer's copy of the contract, and attest it with his signature.

In that case contracts of relatives to be cancelled.

85. When the Superintendent declares the labour-contract of any labourer to be cancelled, any other labourer who is the wife, husband, father, mother, son or daughter of such labourer, and who may have entered into a labour-contract at the same place with the same employer, may claim to have her or his labour-contract cancelled at the same time. On such claim being made, the Superintendent shall declare the labour-contract of the claimant to be cancelled, and shall order the agent or representative of the claimant's employer to pay to the claimant such reasonable sum as is necessary to enable him and his dependents (if any) to return to the place at which he was registered.

On failure for twenty-four hours of the agent or representative to comply with such order, the Superintendent may pay the sum specified in the order to or on behalf of the claimant; and the provisions of section 79 shall, *mutatis mutandis*, apply to the recovery of any sum so paid.

CHAPTER V.

TRANSPORT BY RIVER.

A.—Passenger-vessels.

Transport by sea to Chittagong.

86. Nothing in this chapter shall apply to the transport by sea of natives of India to the labour-districts of Chittagong and the Chittagong Hill Tracts.

Vessels to carry more than twenty passengers must be licensed.

87. No master shall receive more than twenty passengers being natives of India on board his vessel for the purpose of transporting them to a labour-district unless a license to carry passengers in such vessel has been granted to him by an Embarkation Agent duly empowered in that behalf by the Local Government.

Power to exempt vessels.

The Local Government may, by notification in the official Gazette, exempt from the provisions of this section any vessel or class of vessels.

Application for license.

88. The master or owner of any vessel who desires to obtain a license under this Act to carry passengers in such vessel shall make a written application for a license to an Embarkation Agent empowered as aforesaid.

Contents of application

Every such application shall state such particulars respecting the vessel as the Local Government may by rule prescribe.

Grant of license.

89. If such Embarkation Agent is of opinion that the vessel is in all respects suitable for carrying passengers being natives of India to a labour-district, he shall give to the master of the vessel a license to carry passengers

therein, specifying the number of passengers being natives of India which may be received on board.

Fee for license.

90. Such fee, not exceeding sixteen rupees, as the Local Government may, with reference to the size of such vessel, by rule direct, shall be paid for every such license. No such license shall be in force for more than one voyage:

Provision for annual licenses.

Provided that the Emigration Agent may, from time to time, with the previous sanction of the Local Government, grant a license to the master of any vessel for any term not exceeding one year, on payment of such fee not exceeding one hundred rupees, and on such conditions as the Local Government may by rule direct.

Emigration Agent may limit number to be received on board on any particular voyage.

91. Any Emigration Agent may, in accordance with such rules as the Local Government may prescribe in this behalf, direct by order in writing that, on any particular voyage or part of a voyage, any master licensed hereunder shall not receive on board his vessel more than a specified number of passengers being natives of India, which number shall be less than the number specified in the license granted to such master.

Two children under ten to be counted as one person.

92. In computing the number of persons on board of any vessel, two children under the age of ten years shall for the purposes of this Act be reckoned as one person only.

Master to make returns.

93. Every master to whom a license is granted hereunder shall keep such lists, submit such returns and make such reports in regard to the passengers carried in his vessel as the Local Government may by rule prescribe.

Provisions, clothing, medical and other officers, cooks, &c.

94. Every such master shall have on board his vessel carrying labourers and their dependents such supplies of provisions and clothing, and such medical and other officers, cooks and attendants, as the Local Government may by rule prescribe.

Medical officer to be licensed.

95. No medical officer shall be appointed to any vessel in respect of which a license is granted hereunder unless he holds a license granted by such authority as the Local Government may appoint in that behalf; and any medical officer so licensed shall be forthwith removed from his appointment on the requisition of any officer empowered by the Local Government to make such requisition.

B.—Departure of Passenger-vessels and Procedure during Voyage.

Emigration Agent may order departure of vessel if delay occurs.

96. Whenever it appears to any Emigration Agent that the departure of any vessel in respect of which a license is granted hereunder is unduly delayed beyond the date fixed by order of a Superintendent or the Local Government, or notified by advertisement in the public press, for such departure, he may order the master of such vessel to proceed on his voyage at once.

Master to receive way-bills from Embarkation Agent.

97. No master licensed hereunder shall proceed on a voyage with his vessel carrying labourers until he has received from the Embarkation Agent the way-bills relating to all labourers on board. The Embarkation Agent and the master of the vessel shall together personally ascertain that the number of labourers on board corresponds with the number entered in such way-bills.

The Embarkation Agent shall send a copy of such way-bills to the Magistrate of the labour-district to which such labourers are proceeding.

Labourers not allowed finally to leave vessel at any place other than that mentioned in way-bill.

98. No such master shall cause or permit any labourer finally to leave his vessel at any place other than that named in the way-bill as the destination of such labourer:

Provided that this section shall not be deemed to prevent the master of any vessel from permitting such labourers to disembark at any place or places on the voyage so long as such disembarkation is not intended or known to be likely to be final; nor to prevent the final disembarkation of any such labourers, or the transfer of such labourers with their dependents to any other vessel in case of accident or other unavoidable necessity. Such accident or necessity shall be forthwith reported by the master to the Embarkation Agent by whom he was licensed, and to the nearest Magistrate in the district within which such accident has occurred or necessity has arisen.

Master to stop his vessel at certain places where there is a Magistrate.

99. Every master licensed hereunder shall stop his vessel carrying passengers being natives of India at such places, being places where a Magistrate is stationed, and shall, unless the Magistrate permits him to depart earlier, remain at each such place for such time, not exceeding six hours of daylight, as the Local Government may direct. Such master shall, on arriving at any such place, immediately report to the Magistrate the number of the crew and other persons on board, the general state of their health, and the number of deaths (if any) which have occurred among the persons who embarked on board his vessel.

Magistrate may at any time inspect vessel.

100. A Magistrate may, while any vessel in respect of which a license is granted hereunder is within the local limits of his jurisdiction, go on board such vessel and inspect the vessel and all persons being natives of India on board. The master and officers of such vessel shall afford to such Magistrate every facility for such inspection, and give him all such information as he may reasonably require respecting the labourers or other persons on board, the deaths, if any, which may have occurred on board, and any other facts which may affect the health of the passengers.

Master bound to give all information required.

Magistrate may regulate communica-

101. At any time while any such vessel is within the local limits of his jurisdiction, the Magistrate may regulate the communication between such

vessel and the land, and may prohibit all persons from leaving such vessel and all persons on land from proceeding on board her. tion between vessel and land.

102. Any Magistrate may, if he has reason to believe that any passengers being natives of India on board any such vessel within the local limits of his jurisdiction are, or are likely to be, affected with any dangerously infectious or contagious disease, detain such vessel and require the civil medical officer of the district or other qualified medical officer to inspect such passengers and to report on their health, stating whether any or what measures are requisite for the removal or prevention of such disease. After the receipt of such report, the Magistrate may order any such passenger suffering from any such disease to be disembarked and detained for medical treatment. If in the opinion of the inspecting medical officer it is dangerous to the health of the general body of the passengers to allow such vessel to proceed until measures have been taken to cleanse and disinfect her, the Magistrate may detain the vessel for a further period, not exceeding three days, for the purpose of carrying out such measures. Magistrate may detain vessel for inspection and for removal of disease, and may detain sick native passengers.

103. If, on receiving a report of a medical officer, it appears to a Magistrate that any labourer or any dependent of any labourer, though not suffering from any such disease as last aforesaid, is not in a fit state of health to proceed to the labour-district in which such labourer has contracted to labour, he may order such labourer or dependent to be detained, and shall cause all necessary arrangements to be made for the accommodation, support and medical treatment of the labourer or dependent so detained. Magistrate may detain sick labourers; and shall arrange for their accommodation and treatment.

104. All expenses incurred under section 103 by a Magistrate in respect of any labourer or dependent so detained shall be recoverable from the employer of such labourer together with interest at six per centum per annum. Expenses how to be recovered.

105. Whenever it appears to a Magistrate making an inspection of any vessel in respect of which a license is granted hereunder that the number of passengers on board being natives of India is larger than the number specified in such license or than the number specified in an order of an Embarkation Agent made under section 91, he may remove the excess number and detain them until another opportunity of forwarding them to their destination is found. The necessary expense of maintaining such passengers while so detained and of forwarding them to their destination shall be paid by such Magistrate, and shall be recoverable from the master or owner of such vessel. Measures to be taken if excess number of native passengers is found on board.

106. Whenever, on making an inspection of any vessel in respect of which a license is granted hereunder, a Magistrate finds that any of the provisions of this Act or of any rule of the Local Government made hereunder have not been complied with in respect of such vessel, he shall report the same to the Infraction of the Act and rules to be reported.

Vessel may be detained.

Embarkation Agent by whom such license was granted; and, if he considers it necessary to do so, he may detain the vessel until such provisions have been so complied with as to make it possible for the voyage to be further prosecuted with safety and reasonable comfort to the emigrants.

Power to make rules regulating disembarkation and other matters.

107. The Local Government may make rules regulating—

(*a*) the disembarkation of labourers and their dependents, and their inspection and accommodation on arrival at their destination;

(*b*) the detention of such labourers or dependents at debarkation-depôts;

(*c*) the forwarding of labourers to their destination and the closing and return of way-bills by employers.

All expenses incurred by any Magistrate or Debarkation Agent in accordance with such rules shall be recoverable from the employers of such labourers together with interest at the rate of twelve per centum per annum.

Magistrate may depute a Subordinate Magistrate to discharge the functions of the Magistrate.

108. The Magistrate of a district, or of a division of a district, may from time to time authorize any Subordinate Magistrate, medical officer or officer of police above the rank of sub-inspector, to exercise the powers and authorities conferred, and to perform the duties imposed, on a Magistrate under sections 99 to 106, both inclusive.

CHAPTER VI.

Provisions as to the Labour-districts.

A.—Annual Rate payable by Employers.

Annual rate payable by employer.

109. Every employer shall, on the first day of January and the first day of July in each year, pay in respect of each labourer then in his employ such rate, not exceeding an annual sum of one rupee, as the Local Government may, by notification in the official Gazette, direct.

Payment of rate how to be enforced.

110. If any employer fails, for the space of one month after the receipt of a notice in such form and served in such manner as the Local Government may prescribe, to pay any sum due by him under the provisions of the last preceding section, such sum shall be recoverable as if it were an arrear of land-revenue due from such employer.

B.—Local Labour-contracts.

Labour-contracts made within labour-districts.

111. Notwithstanding anything hereinbefore contained, any employer may enter into a labour-contract with any native of India within a labour-district. When any employer has executed any such contract with any such native within a labour-district, he shall, within one month from the date of the exe-

cution of such contract, forward it in duplicate to the Inspector within the local limits of whose jurisdiction such employer resides. On receipt of the contract so forwarded, the Inspector shall enter an abstract thereof in a register to be kept by him for the purpose, and shall then give one copy of the contract to the labourer and the other copy to his employer.

Registration of such contracts.

When, for the first time after the registration of any such contract with a labourer, the Inspector visits the estate on which such labourer is employed, the employer shall cause such labourer to appear before the Inspector, and such labourer may thereupon apply to the Inspector to cancel the contract; and, if he shows cause sufficient in the opinion of the Inspector to justify the cancellation, the Inspector may cancel the contract, and shall thereupon endorse on the labourer's copy of the contract, or, if such copy be not forthcoming, shall give to the labourer, a certificate of such cancellation.

When such contracts may be cancelled.

112. Any employer desirous of entering into a labour-contract with any native of India in a labour-district may, instead of executing such contract under section 111, appear either in person or by agent with such native before the Inspector or Magistrate within the local limits of whose jurisdiction such employer resides.

Execution of labour-contract before Inspector or Magistrate.

Such Inspector or Magistrate shall thereupon explain the labour-contract to such native, and shall, if satisfied that he is competent to enter into and understands the same, call upon him and the employer or his agent to execute it in his presence; and, if they execute it, shall attest such execution with his signature.

An abstract of every such labour-contract shall be entered in a register to be kept by the Inspector or Magistrate for the purpose; and one copy of such contract shall then be given to the labourer and the other copy to his employer or his agent.

In respect of every labour-contract an abstract whereof is registered under section 111 or under this section, the employer who executes such contract in person or by agent shall pay to the Inspector or Magistrate such fee, not exceeding one rupee, as the Local Government may direct.

C.—Employers' Returns and Magistrates' Inspections.

113. Every employer shall keep such registers of all labourers and other persons employed on the estate of which he is in charge, in such form, and shall make to the Inspector within the local limits of whose jurisdiction such estate is situate such periodical returns in writing, as the Local Government may by rule prescribe. The Inspector may examine such registers and muster all labourers and other persons employed on any estate within such local limits,

Registers to be kept and returns made by employers

and may verify the accuracy of the entries in such registers, or in any prescribed periodical return.

Inspector and Magistrate may at any time inspect lands, &c., used by labourers, &c.

114. Any Inspector or Magistrate, or any person authorized by either of them in writing in this behalf, may at any time enter and inspect all lands and houses wholly or partially used by or for labourers, or by or for any other natives of India employed on any estate who are not natives of the labour-district in which such estate is situate, and may require that any labourer or other such native shall be brought before him, and that a copy of the labour-contract of any labourer shall be produced, and may make any inquiries which he thinks proper touching the condition or treatment of any labourer or other such native.

D.—Regulation of Labour.

Schedule of task-work to be prepared.

115. Every employer shall prepare a schedule specifying the daily task to be executed by each labourer employed on the estate of which such employer is in charge, and may from time to time alter any schedule so prepared.

One copy of every such schedule shall be filed in a book which shall be open to the examination of the Inspector, and another copy thereof in the Bengáli language shall be stuck up in some conspicuous place accessible to the labourers to whom such schedule relates.

The minimum payment for each daily task shall be the quotient resulting from dividing the monthly wage of the labourer concerned by the whole number of days in the current month.

Limitations and conditions of task-work.

116. No labourer shall be bound to labour more than six days in one week, or more than six consecutive hours, or more than nine hours in any one day. Every labourer shall, for one day in each week, receive wages as for a full task done, without being required to labour for the same. The employer shall, on six days in each week, provide for each labourer work sufficient to enable him to earn at least his minimum daily wage. Failing such due provision of work, the labourer shall, if he can show that he was able and willing to labour for the same, be entitled to claim his minimum daily wage.

Provisions for revision of schedule by Inspector subject to appeal to committee.

117. If the Inspector considers that any schedule of daily tasks, or any part thereof, is unreasonable, he may by order in writing direct that a reduction specified in such order be made of such tasks. The employer shall at once make such reduction, but may, if dissatisfied with the Inspector's order, by notice in writing require the Inspector to refer the schedule to a committee for consideration. Such committee shall consist—

(*a*) of the Inspector,

(*b*) of some person to be nominated by the employer whose schedule is to be considered, and,

(c) if practicable, of a medical officer.

Where the employer fails to nominate a person within seven days after being thereunto requested in writing by the Inspector, the Inspector, instead of the employer so failing, may nominate a person.

When the committee consists only of the Inspector and of a person nominated by the employer or Inspector, the Inspector shall have the casting vote.

Committee to revise schedule.

118. If such committee, or a majority thereof, is of opinion that the daily tasks specified in such schedule or any of them are unreasonable, they shall modify and reduce them in such manner as they think fit. The employer shall thereupon alter his schedule accordingly, and copies of the schedule so altered shall be filed and stuck up in the manner directed in section 115, and shall, as between him and the labourers concerned, take the place of the former schedule.

Provision for weakly labourers.

119. Notwithstanding anything contained in any such schedule, the Inspector may order that any specified labourer, who is in his opinion unable from weakness to earn by his labour the sum of one anna and a half per diem, according to the said schedule, shall receive, in lieu of such actual earnings, subsistence-allowance at the rate of one anna and a half per diem, or diet on a scale to be approved by such Inspector. Such subsistence-allowance shall be recoverable as if it were an arrear of wages.

E.—Incapacity for Labour.

Inspector may suspend contract of any labourer temporarily unfitted for labour.

120. The Inspector within the local limits of whose jurisdiction any labourer is employed may release such labourer, for such period as he thinks fit, from performing his labour-contract, if he be, in the judgment of such Inspector, temporarily unfitted for the performance thereof by reason of sickness, or other sufficient cause.

Every such release shall be endorsed by the Inspector on the labour-contract, and the time during which the release continues shall not be reckoned as part of the term for which the labourer is bound to serve. Every such labourer shall, during such release, receive such subsistence-allowance from his employer as the Inspector thinks sufficient.

Labourer absent from sickness.

121. If any labourer is compelled to absent himself from work on account of sickness, he shall receive from his employer for each day of such absence subsistence-allowance of one anna and a half, or, if in hospital, sick diet on a scale to be approved by the Inspector.

If such absence exceeds the total number of thirty days in any one year, and the employer, as soon as such number is exceeded, gives the labourer a notice in writing to that effect, each day of absence in excess of such number

shall be added to the term of the labour-contract, unless the labourer refunds to the employer the sum of one anna and a half for each day so in excess. The Inspector shall from time to time, when visiting the estate, endorse on the labourer's labour-contract, after such inquiry as may be necessary, the number of days so added to the term thereof.'

Discharge of labourer permanently incapacitated.

122. If, in the opinion of the Inspector, any labourer is permanently incapacitated for the performance of his labour-contract or any material part thereof, the Inspector shall certify to that effect in writing and deliver such certificate to the employer of such labourer or his agent, and from the date of such certificate the labour-contract of such labourer shall wholly determine. Every labourer whose labour-contract so determines shall be entitled to receive from his employer such sum, not exceeding three months' wages, as the Inspector may award.

Such sum and any subsistence-allowance mentioned in sections 120 and 121 shall be recoverable as if they were arrears of wages.

F.—Accommodation for Labourers.

House-accommodation, water-supply and sanitary arrangements to be provided.

123. Every employer shall be bound to provide for the labourers employed on the estate of which he is in charge such house-accommodation, water-supply and sanitary arrangements as the Local Government may by rule direct.

Supply of food-grain by employer.

124. When the food-grain commonly used by any class of labourers is not procurable by such labourers at reasonable prices in the local markets near the estate on which such labourers are employed, the employer of such labourers shall be bound to supply them with such grain at a reasonable price. The Local Government may, by notification in the official Gazette, determine, either generally or for each district, or part of a district, what shall for the purposes of this section be deemed to be a reasonable price.

Provisions for rationing.

125. Subject to any rules which may be made by the Local Government in this behalf, any Inspector may, by order in writing,—

(*a*) direct that, on any specified estate within the local limits of his jurisdiction, all the labourers or any specified class of labourers shall be furnished by their employer with rations, cooked or uncooked, on such scale, for such period not exceeding three months from the date of their arrival on the estate, as may be specified in such order;

(*b*) exempt any specified labourer from the effect of any such general order if he is satisfied that such labourer is able to earn a full wage and desires to provide himself with proper and sufficient food;

(*c*) direct that any specified labourer shall be furnished with rations for any term not exceeding six months, and renew any such order for a like term.

The cost of each labourer's ration furnished to him in accordance with any order made under this section shall be calculated at current rates as determined by the Inspector, and shall be deducted from any wages earned by the labourer during the period for which such order is in force.

Provision for hospital-accommodation and medical attendance.

126. If any employer does not, in the opinion of the Inspector, provide such hospital-accommodation in a suitable place available to the labourers employed upon the estate of which he is in charge, or does not make such provision for the medical treatment of such labourers, as the Local Government may direct, the Local Government may require such employer to contribute to the support of a central hospital to be established, or to the pay of a medical officer to be appointed, for the medical treatment of such labourers, such sum, proportionate to the number of labourers so employed, as it thinks fit.

Inquiry whether employer has failed to provide accommodation, &c., as required by the rules.

127. Any Inspector or Assistant Inspector who is himself a Magistrate may, with respect to any estate situate within the local limits of his jurisdiction, institute an inquiry whether the employer in charge of such estate has provided for his labourers house-accommodation, water-supply, sanitary arrangements, food-grains and rations in accordance with the rules prescribed by the Local Government. At the instance of any Inspector or Assistant Inspector a similar inquiry may be made by a Magistrate. Every such inquiry shall be held at some place on the estate to which it relates, or within ten miles of such estate, and shall be conducted and dealt with as if it were an inquiry of a Magistrate under the Code of Criminal Procedure.[a]

of 1882.

G.—Localities unfit for the Residence of Labourers.

Inspector to report.

128. If in the opinion of the Inspector any estate or portion of an estate situate within the local limits of his jurisdiction is at any time, by reason of climate, situation or condition, unfit for the residence of labourers, or of any particular class of labourers, he shall give notice in writing of such opinion to the Magistrate of the district; and such Magistrate shall forthwith, by order in writing, summon a committee to inquire into the matter.

Magistrate to summon committee.

Such committee shall consist of the Magistrate, the Inspector, the medical officer of the district and one or more employers of labourers, when such employers are available.

If the Magistrate is unable to procure the service on such committee of

[a] See Act X of 1882, s. 3.

any employer of labourers, he may, with the previous sanction of the Commissioner of the division, appoint one or more persons qualified to serve on such committee.

Proceedings of committee.

129. Such committee shall as soon as may be inquire into the healthiness of the estate or portion to which the order appointing the committee relates, and shall hear and record such information on the subject as the owner of such estate or portion, or the employer in charge thereof or the Inspector, may desire to place before it.

If committee finds estate unfit, labour-contract to be void as regards such estate.

If such committee or the majority thereof is of opinion that such estate or portion, or any part of such estate or portion, is unfit for the residence of labourers generally, or of any particular class of labourers, it shall record a finding to that effect.

When such finding has been recorded, no labourer, or no labourer of the particular class to which such finding relates, as the case may be, shall be bound by any labour-contract to labour on the estate or portion, or part of such estate or portion, as the case may be, which is found unfit for the residence of such labourers.

Labourer bound to labour elsewhere.

When any labourer is released under this section from the performance of a labour-contract to labour on any estate, he shall be bound to labour on any other estate belonging to his employer and situate in the same labour-district, or, where the finding related only to a portion or part of an estate, on any other portion or part of the same estate.

Local Government how to proceed if mortality in past year exceeds seven per cent., or if the average mortality for three years exceeds seven per cent.

130. Whenever it appears to the Local Government that the number of labourers employed on an estate who have died thereon or on any portion thereof, during the last preceding twelve months, or that the average annual number of labourers employed on an estate who have died thereon or on any portion thereof during the last preceding three years, bears a larger proportion to the whole number of labourers employed thereon during such period of twelve months or three years, as the case may be, than seven per centum, the Local Government may direct the civil medical officer of the district or other qualified medical officer to inquire into and report on the following matters:—

Matters to be inquired into.

(*a*) the cause or causes of such mortality;

(*b*) the want (if any) of due care or precaution, and of the adoption of proper and available sanitary measures, on the part of the owner of such estate or portion thereof, or the employer in charge of such estate or portion, causing or contributing to such mortality;

(*c*) the fitness or otherwise of such estate or portion for the residence of labourers.

Medical officer to report.

131. Such medical officer shall, as soon as may be, inquire into such mat-

ters, and shall hear and record such information relating thereto as the owner of such estate or portion, or the employer in charge of the same, or the Inspector, may place before him, and shall visit and inspect such estate or portion, and shall make a report expressing the reasons for his opinion, and transmit the same to the Local Government together with the information so recorded and the notes of his inspection of such estate or portion.

Local Government may declare estate unfit for residence.

132. If the Local Government, after perusal and consideration of the said report, information and notes, is of opinion that such mortality was caused by the want, on the part of the owner of such estate or portion, or the employer in charge of the same, of due care or precaution, or of the adoption of proper and available sanitary measures, and that such estate or portion is thereby rendered unfit for the residence of labourers, it may declare in writing that such estate or portion is unfit for the residence of labourers. Such declaration of the Local Government shall have the same effect as the finding of a committee under section 129.

Effect of declaration.

Power to certify fitness of estate or portion found or declared to be unfit.

133. If it at any time appears to the Inspector that any estate or portion thereof, or any part of such portion, found under section 129, or declared under section 132, to be unfit for the residence of labourers, or any particular class of labourers, has become fit for the residence of such labourers or such particular class of labourers, as the case may be, he shall, with the previous sanction of the Magistrate of the district in which such estate, portion or part is situate, give a certificate to that effect signed by him. Thereupon all labourers who have been released under section 129 or section 132 from the performance of a contract to labour on such estate, portion or part, shall again be bound to labour on the estate, portion or part, as the case may be, to which the certificate relates.

H.—Complaints made by Labourers.

If labourer wishes to complain of personal ill-usage or breach of Act, employer to send him to Inspector or Magistrate.

134. If any labourer states to his employer, or any person acting on behalf of his employer, that he desires to make a complaint to the Inspector or to any Magistrate of personal ill-usage or breach, on the part of his employer or such person, of any provisions of this Act or of any rule of the Local Government made hereunder, the person to whom such statement is made shall forthwith send such labourer to the Inspector or Magistrate within the local limits of whose jurisdiction the estate wherein he is employed is situate:

Provided that, if more than ten labourers at any one time so state their desire to make such a complaint, the person to whom the statement is made may, instead of sending such labourers to such Inspector or Magistrate, give him notice in writing of their complaint.

Inspector or Magistrate how to proceed if complaint is made to him, or if he has reason to believe that there is ground for a complaint.

135. Whenever any such complaint is made to an Inspector or Magistrate, or whenever any Inspector or Magistrate receives notice in writing of any such complaint, or has other reasonable grounds for believing that any employer or person acting on his behalf has personally ill-used, or committed any breach mentioned in section 134 in respect of, any labourer, such Inspector or Magistrate shall, as soon as may be, proceed to some place not more than ten miles from the principal place of business of such employer situate within the local limits of his jurisdiction, and inquire into the matter complained of:

Provided that, if the place in which an Inspector or Magistrate has reasonable grounds for believing that such ill-usage or breach has been committed is situate beyond the local limits of his jurisdiction, he shall, instead of inquiring into the matter himself, forthwith send information thereof in writing to the Inspector or Magistrate within the local limits of whose jurisdiction such ill-usage or breach has been committed.

Power to summon witness.

For the purposes of an inquiry under this section, the Inspector or Magistrate may summon and examine any person as a witness.

If complaint is untrue or frivolous.

136. If, upon such inquiry made on the complaint of a labourer, the Inspector or Magistrate is of opinion that the complaint is untrue or frivolous or vexatious, he shall dismiss the complaint; and in such case shall endorse on the employer's copy of the complainant's labour-contract the number of days during which the complainant has been absent from work in consequence of the inquiry, and the number of days so endorsed shall be added to the period for which the complainant contracted to labour.

Every such endorsement shall be conclusive evidence that the complainant has absented himself from his labour voluntarily and without reasonable cause during the number of days so endorsed.

Award of compensation to employer

137. When any complaint is dismissed under section 136, the Inspector or Magistrate may award to the employer any reasonable compensation on account of any expense incurred by him in connection with such complaint, and shall endorse the amount of such compensation on the complainant's copy of the labour-contract. The complainant shall be bound to pay the amount so awarded; and in default of such payment his labour-contract shall not be deemed to have determined until he has worked off such amount at the rate of one day's labour for each four annas of such amount.

If on inquiry there is sufficient ground for proceeding.

138. If, upon such inquiry by a Magistrate or by an Inspector who is a Magistrate, such Magistrate or Inspector is of opinion that there is sufficient ground for proceeding with the case, he shall dispose of the same according to law. If the Inspector is not a Magistrate and is of such opinion, he shall without delay send the complainant and his witnesses (if any) to the nearest

Magistrate; and such Magistrate shall thereupon dispose of the case according to law.

Recovery of arrears of wages.

139. If, upon the complaint of any labourer, it is proved to the satisfaction of a Magistrate that the wages of such labourer are in arrear for two months, or if the wages of any person whose labour-contract has determined are proved to the satisfaction of a Magistrate to have been withheld for any period after such determination, the Magistrate may award to such labourer or person the amount which appears to be then due to him; and also, by way of compensation, such further sum, not exceeding that amount, as to such Magistrate seems just; and, in case of default in payment of the amount so awarded, the Magistrate shall levy such amount by distress and sale of any moveable property belonging to the employer of such labourer or person.

Compensation may be given.

Power to cancel contract on conviction of employer,

140. Whenever it is proved to the satisfaction of a Magistrate—

(*a*) that any employer, or any person placed by him in authority over any labourer, has been convicted of any offence causing injury to the person, or loss or damage to the property, of such labourer and under the Code of Criminal Procedure[a] triable exclusively by the Court of Session, or

X of 1882.

(*b*) that any employer, or other person as aforesaid, has been twice convicted of any such offence against such labourer and under the said Code triable by a Magistrate, or

or if wages are in arrear for more than four months,

(*c*) that the wages of any labourer are in arrear to an amount exceeding the whole of such labourer's wages for four months, or

or if ill-usage is proved.

(*d*) that any labourer has been compelled by his employer or by any person placed by his employer in authority over him to perform any labour while he was unfit for it, or has been subjected to ill-usage by his employer or any such person,

such Magistrate may, if he thinks fit, on the application of the labourer aggrieved, cancel the labour-contract of such labourer, and award to him compensation not exceeding thirty rupees.

Every such cancelment shall be certified by the Magistrate on the back of the labourer's copy of the labour-contract, or, if the same be not forthcoming, by writing under the Magistrate's hand delivered to the labourer.

I.—Determination of Labour-contract.

Endorsement of determination on

141. Whenever a labour-contract determines, the employer shall endorse on the labourer's copy of the contract the fact of such determination, or, if

[a] See Act X of 1882, s. 3.

labour-contract.

such copy be not forthcoming, shall give to the labourer a certificate of such determination; and, if the employer refuses or neglects to do so, the Inspector may, on application by the labourer, make such endorsement or give such certificate.

The employer shall give to the Inspector notice in writing of such determination within one month from the date thereof.

Power to redeem labour-contract.

142. If any labourer is able and desirous to redeem the unexpired term of his labour-contract or of the labour-contract of any member of his family, by payment of a sum equivalent to the value of such unexpired term, such labourer may require his employer to take him, or allow him to go, before the Inspector within the local limits of whose jurisdiction he may be employed; and, on his depositing such sum with such Inspector, the Inspector shall give notice to the employer that the labourer requires him within one week to show cause why the labourer, the unexpired term of whose contract is proposed to be redeemed, should not be released from his contract. If no sufficient cause is shown, the Inspector shall require such labourer's copy of the contract to be produced, and on production thereof shall endorse thereon a certificate that he has been released under this section from such contract, or, if such copy be not forthcoming, shall deliver to the labourer a certificate under his hand to that effect: and shall in either case hold the sum so deposited to the credit of the employer of such labourer.

Value of unexpired term of labour-contract.

The value of the unexpired term of a labour-contract shall, for the purposes of this section, be deemed to be the aggregate amount of one rupee for every month of the unexpired portion of the first year, of three rupees for every such month of the second year, and of five rupees for every such month of the third, fourth and fifth years of the original term of the contract.

CHAPTER VII.

Supplementary Powers.

Power of the Local Government to make rules.

143. The Local Government may make rules consistent with this Act—

(*a*) to define and regulate the powers and duties of the several officers appointed by it under this Act;

(*b*) to prescribe what returns and reports shall be made under this Act by any such officers or by any contractors or local agents within the territories under its administration and the form in which they shall be respectively so made;

(*c*) to prescribe the forms of all registers, licenses, certificates and notices

required under this Act with respect to the territories under its administration;

(*d*) to prescribe the particulars to be registered by a Registering-officer in respect of each person who is brought before him in any district under its administration for registration as a labourer or dependent;

(*e*) to prescribe the fees to be paid for any license granted under this Act by any officer appointed by it and for the registration of labourers or dependents in any district under its administration;

(*f*) to prescribe the conditions upon which any officer appointed by it may grant licenses to masters of vessels carrying passengers to any labour-district; to provide for the ventilation, cleanliness and water-supply of such vessels in respect of which licenses are granted hereunder by any such officer; and to prescribe the lists, returns and reports to be kept and submitted by the masters of such vessels;

(*g*) to prescribe the description, quantity and quality of provisions, medical drugs and other stores to be taken on board such vessels carrying labourers when such vessels are within the territories under its administration, and the daily allowance to be issued to each labourer and dependent during the journey through such territories; to prescribe the number of officers, cooks and other servants to be carried on board such vessels, and to provide generally for the accommodation of labourers and their dependents on such vessels;

(*h*) to provide for the accommodation, food, clothing and medical treatment of all labourers and dependents detained on account of sickness by order of a Magistrate at any place within any district under its administration;

(*i*) to declare the routes through the territories under its administration by which labourers and their dependents shall not travel to the labour-districts;

(*j*) to prescribe the house-accommodation, water-supply, sanitary arrangements and amount and kind of food-grains to be provided by employers for their labourers, and to regulate the rations to be supplied to labourers under this Act in the labour-districts under its administration;

(*k*) to provide for the hospital-accommodation and medical treatment of labourers in such labour-districts, and to prescribe the nature, quality and quantity of medical drugs and other stores to be provided for such labourers;

(*l*) to provide for the management and regulation of contractors' depôts

and of hospital-depôts situate within the territories under its administration, and for the support and medical treatment of labourers and their dependents passing through such depôts;

(*m*) to prescribe the clothing to be supplied to labourers and their dependents while proceeding to the labour-districts through the territories under its administration; and, generally,

(*n*) to give effect to the provisions of this Act within the districts subject to its administration.

Special power of the Lieutenant-Governor of Bengal and Chief Commissioner of Assam.

144. The Lieutenant-Governor of Bengal and the Chief Commissioner of Assam may further respectively make rules consistent with this Act to provide for the detention and inspection of vessels in respect of which licenses are granted hereunder and passengers being natives of India carried thereon while in transit through the territories respectively administered by them.

Power to prescribe penalties.

145. The Local Government may, subject to the control of the Governor General in Council, by rule prescribe as a penalty for the infringement of any rule made by it hereunder, or of any provision of this Act for a breach of which a penalty is not expressly provided, a fine which may extend to five hundred rupees.

Publication of rules.

All rules made under this Act by the Local Government shall be published in the local official Gazette, and shall thereupon have the force of law.

CHAPTER VIII.

PENALTIES AND PROCEDURE.

Inducing native to emigrate in contravention of a notification under section 5.

146. Whoever knowingly induces or assists, or attempts to induce or assist, any native of India to emigrate in contravention of a notification published under section 5 shall be punished with fine which may extend to fifty rupees for every such native whom he so induces or assists, or attempts to induce or assist.

Recruiter removing, &c., unregistered persons.

147. Whoever, being a recruiter,

removes, or attempts to remove, any person to a depôt before he has been registered under section 32, or induces or attempts to induce him to go to a depôt or to leave the local limits of the jurisdiction of the Registering officer before whom such person ought to be brought under section 31, or aids or attempts to aid such person in going to a depôt or in leaving any such local limits, before he has been so registered,

or induces or attempts to induce any person who has been so registered to proceed to any place other than the depôt which has been established by the

contractor on whose behalf such recruiter is licensed, or conveys or attempts to convey him to such place,

shall be punished in respect of every such person with fine which may extend to fifty rupees, or with imprisonment for a term which may extend to one month.

Recruiter not supplying proper food, &c.

148. Whoever, being a recruiter or a person deputed by him to accompany labourers to a depôt, fails to provide any labourer or any dependent whom he accompanies on the journey to the depôt with proper and sufficient food and lodging, or otherwise ill-treats such labourer or dependent on such journey, shall be punished with fine which may extend to fifty rupees, and, in default of payment of such fine within twenty-four hours, with imprisonment for a term which may extend to one month.

The convicting Magistrate may award the whole or any portion of any fine levied under this section as compensation to the labourer in respect of whom, or of whose dependent, such failure or ill-treatment has occurred.

Labourer refusing without reasonable cause to execute contract at depôt.

149. Any labourer engaged by a recruiter and who, having been registered under section 32, without reasonable cause refuses or neglects when at the depôt to execute, within thirty days after his arrival at such depôt, a labour-contract in conformity with the terms made known to him when he was registered, shall be punished with fine which may extend to the amount of the expense incurred in registering him and conveying him to the depôt and maintaining him therein, and, in default of payment of such fine, with imprisonment for a term which may extend to one month.

Any labourer so punished may be forthwith discharged from the depôt.

Every fine levied under this section shall be paid to the contractor, sub-contractor or recruiter by whom such expense was incurred.

Labourer refusing to execute contract with garden-sardár.

150. Any labourer registered under section 66 who, without reasonable cause, refuses or neglects to execute, within fifteen days from the day on which he was so registered, a labour-contract in conformity with the terms made known to him when he was registered, shall be punished with fine which may extend to twenty rupees or to the amount of the expense reasonably incurred by the garden-sardár in procuring his registration, whichever amount is least.

Every fine levied under this section shall be paid to the garden-sardár by whom such expense was incurred.

Garden-sardár failing to report himself.

151. Whoever, being a garden-sardár,

fails, within fourteen days after his arrival in the local area within which he is authorized to enter into contracts under this Act, to report himself to the local agent (if any) specified in his certificate, or

removes or attempts to remove any person to a labour-district before he has been registered as provided by section 66, or

induces or attempts to induce any person to go to a labour-district or to leave the local area specified in the certificate of such sardár before he has been so registered, or aids or attempts to aid him in proceeding to a labour-district or in leaving any such local area before he has been so registered, or

fails without sufficient cause to return to his employer within the time specified in his certificate, or

fails to account for the money advanced to him by his employer for the purpose of engaging labourers, and

whoever being a garden-sardár or a person appointed under section 50 or section 73 to accompany labourers to a labour-district wilfully abandons any labourer or his dependent on the way to such district,

shall be punished with imprisonment for a term which may extend to one month.

Garden-sardár making over labourers to contractors, &c.

152. Any garden-sardár who

makes over to any contractor, sub-contractor or recruiter, or to the garden-sardár or local agent of any employer other than the employer by whom his certificate was granted, any persons engaged as labourers by him, or

allows any persons engaged as labourers by any other contractor or sub-contractor or recruiter to share the accommodation provided by him under section 57, or

places any person engaged as a labourer by him in a contractor's depôt or in the place of accommodation provided by a recruiter in accordance with the provisions of section 27,

shall be punished with fine which may extend to ten rupees; and his certificate may be impounded by the convicting Magistrate.

Any Magistrate impounding a certificate under this section shall send it for cancellation to the Magistrate by whom it was countersigned.

Garden-sardár failing to comply with instructions endorsed on way-bill.

153. Any garden-sardár or person appointed by him as provided by section 73 who accompanies labourers to the labour-districts, and fails to present a way-bill as required by section 76 or to carry out any of the instructions entered in such way-bill, shall be punished with fine which may extend to twenty rupees.

Master receiving native passengers on board in contravention of Act.

154. Any master not licensed under section 89 who, in contravention of section 87, knowingly receives on board his vessel more than twenty passengers being natives of India, and

any master licensed as aforesaid who knowingly receives on board his vessel

any such passengers in excess of the number specified in his license or in any order of an Emburkation Agent under section 91, for the purpose of transporting them to a labour-district,

shall be punished with fine which may extend to two hundrod rupees for each passenger so received.

Nothing in this section applies to the master of a vessel exempted under section 87.

Fraudulent alteration of vessel after grant of license.

155. Any master licensed under section 89 who with intent to defraud does or suffers to be done any act or thing whereby the state of his vessel is altered, so that such vessel is unfit for the accommodation of the number of passengers specified in his license or in any order made under section 91 by an Embarkation Agent, shall be punished with fine which may extend to two hundred rupees.

Master not complying with section 94.

156. Any master licensed as aforesaid who proceeds on his voyage with his vessel carrying labourers without having complied with the provisions of section 94 shall be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months.

Master not complying with order under section 96.

157. Any master licensed as aforesaid who fails to comply with an order of an Embarkation Agent made under section 96 shall be punished with fine which may extend to two hundred rupees for each day during which he fails to comply with such order after the day on which the order was received by him.

Master permitting labourer to leave vessel contrary to section 98.

158. Any master licensed as aforesaid causing or permitting a labourer finally to leave his vessel contrary to the provisions of section 98 shall be punished with fine which may extend to two hundred rupees for each labourer so leaving his vessel.

Master wilfully omitting to stop vessel at certain places.

159. Any master licensed as aforesaid who wilfully omits to comply with the provisions of section 99 shall be punished with fine which may extend to two hundred rupees.

Person disobeying Magistrate's order as to communication between vessel and land.

160. Any person who disobeys any order made under section 101 by a Magistrate shall be punished with fine which may extend to two hundred rupees.

Master or medical officer disobeying or neglecting to enforce rules.

161. Any master licensed as aforesaid, or any medical officer in charge of his vessel, who wilfully omits or neglects to obey or enforce on board of such vessel any provision of this Act or any rule made hereunder, shall be punished with fine which may extend to two hundred rupees.

Labourer

162. Any labourer who, having been registered under section 32 or section

deserting, &c., after registration.

66, deserts while on his journey from the district in which he has been so registered to a labour-district, or

without reasonable cause refuses or neglects to proceed from the district in which he has been so registered, or to embark in any vessel when called upon to do so by an Embarkation Agent,

shall be punished with imprisonment for a term which may extend to three months.

Employer refusing or omitting to keep registers, &c.

163. Any employer who refuses or wilfully omits to keep such registers, or to make such periodical returns in writing to the Inspector, as may be prescribed by any rule made hereunder, or who knowingly keeps an incorrect register or makes an incorrect return, or who wilfully omits to prepare, file or stick up a schedule as required by section 115, shall be punished with fine which may extend to two hundred rupees.

Employer or other person obstructing inspection under section 114.

164. Any employer, or any person acting under his orders or on his behalf, who wilfully obstructs any entry, inspection or inquiry made under section 114 shall for every such offence be punished with fine which may extend to two hundred rupees.

Employer or other person compelling labourer to perform labour for which he is unfit.

165. Any employer, or any person acting under his orders or on his behalf, who compels any labourer to perform any labour, knowing that he is at the time unfit to perform such labour, shall be punished with fine which may extend to two hundred rupees.

Persons buying labourer's rations.

166. Any person who buys the rations which have been furnished under section 125 to any labourer, and any labourer who sells any such rations, shall be punished with fine which may extend to fifty rupees, or with imprisonment for a term which may extend to one month.

Employer omitting to provide house-accommodation, &c.

167. Any employer who wilfully omits to provide house-accommodation, water-supply, sanitary arrangements, food-grains or rations in accordance with the provisions of this Act or any rule made hereunder shall be punished with fine which may extend to five hundred rupees; and the convicting Magistrate may order him to comply with such provisions within a reasonable time to be fixed in the order.

If the employer wilfully omits to comply with such order within the time so fixed, he shall be punished with fine which may extend to one hundred rupees for each day during which such omission continues.

If the employer fails to pay the last-mentioned fine, the person on whose account he has been acting shall be liable to pay such fine.

Employer neglecting to provide

168. Any employer who fails to provide such hospital-accommodation for, or to make such provision for the medical care and treatment of, labourers, as

is required by any rule made under this Act, shall be punished with fine which may extend to two hundred rupees for each week during which such default continues. hospital-accommodation.

169. Where any estate or portion thereof has been found under section 129, or declared under section 132, unfit for the residence of labourers or any class of labourers, as the case may be, every employer who, until a certificate has been given under section 133, causes or permits such labourers or class of labourers to reside or labour upon such estate or portion, shall be punished with fine which may extend to two hundred rupees. Employer causing labourer to reside on estate declared unfit.

170. Every employer may, on or before the fifteenth day of each month, send to the Inspector a statement in writing containing the names of all or any of his labourers who, voluntarily and without reasonable cause, absented themselves from labour during the preceding month, and specifying the periods of such absence. When any employer sends any such statement in writing, he shall at the same time notify to each labourer concerned the fact that he has done so. Unlawful absence from work.

Any Inspector who receives any such statement shall, when next visiting the estate on which the labourers to whom such statement relates are employed, inquire into each such case of absence, in the presence of the labourer concerned, and, if satisfied that the labourer has voluntarily and without reasonable cause absented himself, shall, unless the labourer consents to forfeit to his employer the sum of four annas for each such day of absence, endorse such days of absence on the labour-contract of such labourer, and add them to the term of such contract.

171. Any labourer who, voluntarily and without reasonable cause, absents himself from his labour for more than seven consecutive days, or for more than seven days in any one month, shall be liable to forfeit his wages for the period of such absence, and to pay to his employer a sum not exceeding four annas for each such day of absence, and shall also be liable to imprisonment for a term which may extend to fourteen days; and, in case such absence has extended to twenty days in any two consecutive months, to imprisonment for a term which may extend to one month. Labourer absent without cause.

Explanation.—Ill-treatment of such labourer by his employer, or failure of the employer to fulfil any condition of the labour-contract binding on the employer, is reasonable cause within the meaning of section 170 and this section.

172. If any labourer deserts from his employer's service, such employer, or any person acting on his behalf, may, without a warrant and without the assistance of any police-officer, arrest such labourer wherever he may be found: Deserter may be apprehended without warrant.

Provided that, if such labourer be found within five miles of the place where a Magistrate resides or in the service of another employer, he shall not be arrested without warrant.

Every police-officer shall assist in arresting any such labourer if so required by the employer or person acting on his behalf.

Whoever arrests a labourer under this section shall without delay take him to the police-station nearest to the place of the arrest; and if he fails to do so shall be punished with fine which may extend to two hundred rupees.

Procedure at police-station.

173. The police-officer in charge of such station shall on the appearance of the parties take down in writing the statement of the person arresting the labourer, and shall then forthwith send the labourer to the nearest Magistrate.

Such Magistrate shall either inquire into and dispose of the case himself, or, if the estate of the employer from whose service the labourer deserted is not situate within the local limits of such Magistrate's jurisdiction, he shall forward the labourer to the Magistrate within the local limits of whose jurisdiction such estate is situate.

The Magistrate to whom the labourer is forwarded shall dispose of the case according to law.

Procedure on complaint of desertion.

174. Whenever an employer or a person acting on his behalf complains to a Magistrate that a labourer has deserted from his employer's service, such Magistrate may, without previously examining the complainant, issue a summons for the attendance of such labourer, or a warrant for his arrest, and fix a day for hearing the complaint.

Punishment for desertion.

175. Every labourer who deserts from his employer's service shall be punished with imprisonment for a term which may extend to one month. For a second conviction for a like offence he shall be punished with imprisonment for a term which may extend to two months. For a third and every subsequent conviction for a like offence he shall be punished with imprisonment for a term which may extend to three months.

Compensation for wrongful arrest.

176. If it appears to the Magistrate trying a labourer for deserting from his employer's service that such labourer was arrested without sufficient cause, such Magistrate may impose a fine, which may extend to fifty rupees, on the employer or person acting on his behalf by whom, or at whose instance, such labourer was arrested. The Magistrate may in his sentence direct that the whole or any part of such fine be paid by way of compensation to the labourer so arrested.

Cancellation of contract by desertion.

177. Whenever any labourer has actually suffered imprisonment for terms amounting in the whole to six months for desertion from his employer's service, the Inspector shall cancel the labour-contract of such labourer, and shall

endorse on his copy of the contract a certificate of such cancellation, or, if such copy be not forthcoming, he shall give to the labourer a written certificate of such cancellation.

Penalty for drunkenness or neglect of sanitary regulations.

178. Any labourer guilty of habitual drunkenness, or wilfully disregarding any sanitary regulation approved by the Inspector and duly notified for the guidance of the labourers on the estate on which such labourer is employed, shall be punished with fine which may extend to five rupees or with imprisonment for a term which may extend to one week.

Portion of sentence may be cancelled on application of employer.

179. The employer of any labourer sentenced to imprisonment for any offence under this Act, or any person authorized to act in this behalf for such employer, may apply to the Magistrate, at any time previous to the expiry of such sentence, that such labourer be made over to him for the purpose of completing his labour-contract. On such application being made, the Magistrate may, if he thinks fit, order that such labourer be made over or forwarded to his employer;

and in that case such Magistrate shall cancel the remainder of the sentence passed on the labourer, and shall endorse on his copy of the labour-contract a certificate of such cancellation, or, if such copy be not forthcoming, shall give him a written certificate of such cancellation.

Nothing in this section shall be deemed to affect the provisions of section 177.

Expense of forwarding labourer to be paid by employer.

180. Every employer who obtains an order of a Magistrate for the making over or forwarding of any labourer shall be liable to defray the expense (if any) incurred in such making over or forwarding; and shall, before the order is issued, deposit with the Magistrate a sum sufficient in the Magistrates' opinion to defray such expense.

Conviction not to operate as a release.

181. On the expiry of any sentence of imprisonment for any offence under this Act, the Magistrate shall, subject to the provisions of section 177, make over such labourer to any person appointed on the part of his employer to take charge of him; and no conviction under this Act, or imprisonment under such conviction, shall, save as aforesaid, operate as a release to any labourer from the terms of his labour-contract.

If no person is present on the part of the employer to take charge of the labourer at the expiry of his sentence, the Magistrate shall forward such labourer to the principal place of business of his employer situate within the local limits of such Magistrate's jurisdiction, and the expense of such forwarding shall be recoverable from such employer as if it were an arrear of land-revenue.

Time of un-

182. When any labourer is convicted under section 171 of absence from

lawful absence or imprisonment to be excluded from contract period.

labour or is sentenced to imprisonment for an offence under this Act, the Magistrate so convicting or sentencing him shall endorse on the employer's copy of the labour-contract the period during which such labourer is convicted of being absent from his labour, or the term for which he is sentenced to imprisonment, or both, as the case may be.

The period so endorsed shall be added to the term for which such labourer contracted to serve; and such labourer shall not be deemed to have performed his labour-contract till he has served for the term specified therein in addition to the period so endorsed.

Other person enticing away, harbouring or employing labourer under labour-contract.

183. Whoever, knowing that any labourer is bound by his labour-contract to labour for any employer, voluntarily entices or attempts to entice such labourer to leave such employer, or harbours or employs any such labourer who has, in contravention of the terms of his labour-contract, left his employer, shall be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to one month, or with both.

The convicting Magistrate may in his discretion award to the employer with whom such labourer has contracted the whole or any part of any fine levied under this section.

Employer or other person neglecting to send labourer before Magistrate as provided by section 134.

184. Whoever, being bound by section 134 to send any labourer before, or to give notice of any complaint to, an Inspector or Magistrate, refuses or neglects so to send such labourer, or to give such notice, shall be punished with fine which may extend to two hundred rupees.

Employer refusing to endorse labour-contract, &c., as required by section 141.

185. Any employer who—

refuses or wilfully neglects to endorse the labourer's copy of his contract as required by section 141, or

detains a labourer after the determination of his labour-contract, or

fails to give to the Inspector notice in writing of such determination within one month of the date thereof,

shall be punished with fine which may extend to two hundred rupees.

Employer or other person neglecting to comply with request of labourer wishing to redeem unexpired term.

186. Any employer or person acting for an employer who refuses or neglects to comply with the request of a labourer made under section 142 shall be punished with fine which may extend to two hundred rupees.

Abetment.

187. Whoever abets within the meaning of the Indian Penal Code any offence against this Act or any rule made hereunder shall be punished with the punishment provided for such offence. XLV of 1860

Place of trial for offences.

188. Whoever commits any offence against this Act or any rule made

hereunder shall be triable for such offence in any place in which he may be found as well as in any other place in which he might be tried under any law for the time being in force.

Saving of prosecutions under other laws.

189. Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act or the rules made hereunder, or from being liable under any other law to any penalty higher than that provided by this Act for such offence:

Provided that no person shall be punished twice for the same offence.

CHAPTER IX.

MISCELLANEOUS.

Wages due under labour-contract a charge upon estate.

190. All arrears of wages due under any labour-contract shall be a charge upon the estate upon which the labourer to whom such labour-contract relates has been engaged to labour, or, if he has engaged to labour upon any of several estates managed by the same employer, shall be a charge upon that one of such estates upon which such labourer for the time being actually labours.

Owner of estate for time being has all rights and remedies in respect of labour-contracts charged on it.

191. Whenever an estate on which any labourer has under this Act contracted to labour is transferred by act of parties or operation of law, or devolves, the person to whom it is so transferred or on whom it devolves shall be bound by the labour-contract of such labourer in the same manner and to the same extent as the person by or from whom it is transferred or devolves would have been bound by such contract, and shall have the same rights and remedies under such contract as such person would have had thereunder, if the estate had not been transferred or had not devolved.

Determination of ownership determines liability.

No person who has ceased to be the owner of the estate upon which any labourer has under this Act contracted to labour shall be liable in respect of any breach of the labour-contract of such labourer which occurs after he has ceased to be such owner.

Fines, fees and rates to be credited to "Inland Labour Transport Fund".

192. Subject to the power of a Magistrate under this Act or the Code of Criminal Procedure[a] to award fines in whole or in part as compensation to or for the benefit of any complainant or other person, the Local Government shall credit all fines, fees and rates levied and paid under this Act in the territories under its administration to a fund which shall be called the "Inland Labour Transport Fund;" and such fund shall be at the disposal of such Local Gov-

V of 1882.

[a] See Act X of 1882, s. 3.

ernment, in such manner as the Government of India may direct, for paying the salaries and allowances of all officers and establishments appointed under this Act by such Local Government and their pensionary and leave-allowances, and generally for defraying the expenses of carrying out the purposes of this Act and the rules of the Local Government made hereunder. The annual surplus accruing in such fund shall be applied to reducing the annual rate or the registration fees leviable under this Act, and not otherwise.

Expenditure on roads legalised.

193. All sums heretofore expended on roads or other communications by the Lieutenant-Governor of Bengal out of the Inland Labour Transport Fund constituted by the said Bengal Act No. VII of 1873[a] shall be deemed to have been expended in accordance with law.

Duty of Assistant Inspector.

194. An Assistant Inspector shall perform all such duties and exercise all such powers of an Inspector as he is authorized in writing by the Inspector to perform or exercise.

Powers of Local Government and officers exercisable from time to time.

195. All powers conferred by this Act on the Local Government or on any Superintendent, Medical Inspector, Emigration Agent or other officer may be exercised from time to time as occasion requires.

THE SCHEDULE.

(*See section 9.*)

FORM OF LABOUR-CONTRACT BETWEEN LABOURER AND EMPLOYER.

This contract, made under the Inland Emigration Act, 1882, between *A. B.* (hereinafter called *the labourer*) of the one part, and* [*C. D.* (*agent* or *local agent* or *garden-sardár*) on behalf of] *E. F.* (hereinafter called *the employer*) on the other part, witnesseth that the said* [*agent* or *local agent* or *garden-sardár* on behalf of the said] employer doth hereby promise the said labourer, that if he, the said labourer, do remain and labour on the $\frac{\text{X estate}}{\text{Y estates}}$ † of his said employer in the labour-district of for the term of years from the date of the execution of this contract, he, the said employer, will, from the date on which the said labourer commences to labour on such $\frac{\text{estate}}{\text{estates}}$, pay or cause to be paid to the said labourer monthly wages at the rate of Rs. ‡ for a completed daily task regulated in accordance with the provisions of the said Act, and, when such task is not completed, monthly wages calculated at the same rate in proportion to the amount of work actually done, and that during such period he, the said employer, will supply to the said labourer rice at a price of Rs. — per maund,

* Parts in brackets to be omitted if the contract is made without the intervention of an agent, local agent or garden-sardár.

† As the case may be.

‡ State rates for various periods of contract.

[a] Ben Act VII of 1873 has been repealed by s. 2 of this Act.

(*The Schedule.*)

and will faithfully comply with all rules regarding house-accommodation, medical treatment and the supply of food-grains or rations to the said labourer, which the Local Government may from time to time prescribe; and this contract further witnesseth that the said labourer doth hereby, in consideration of the aforesaid promise, agree so to remain and labour for the said employer. In witness whereof the said parties to these presents have hereunto set their hands at this day of 18 .

(*Signature of labourer and of employer or of his agent, local agent or garden-sardár.*)

Form of Description of Labourer.

Name.	Father's Name	Age.	Sex.	Caste.	Residence			Descriptive marks
					District.	Thána	Village.	

[*Endorsement to be filled up by Registering-officer before whom the contract is executed.*]

I hereby certify that, before the said *A. B.* signed this contract, I personally explained it to him.

Signed— — — — —

Registering-officer.

[*Endorsement on labourer's copy of contract, to be left blank until the contract is determined.*]

I hereby certify that the foregoing contract has been determined by effluxion of time (*or* by mutual consent, *or* under the provisions of section of Act , as the case may be).

Dated at

This day of } — — — — —

Signature of Employer or of Inspector.

ACT No. VI OF 1883.

Received the Governor General's assent on the 23rd February, 1883.

An Act to give power to arrest persons whose evidence is needed under Act XII of 1859.

Preamble.

WHEREAS it is expedient to empower the Judges holding trials under Act XII of 1859 (*An Act to make better provision for the trial of Pilots at the Presidency of Fort William in Bengal for breach of duty*) to arrest persons whose evidence is required on such trials; It is hereby enacted as follows:—

Addition to Act XII of 1859, after section 14.

1. The following section shall be inserted immediately after section 14 of the said Act, namely:—

(See *supra*, *p 402*.)

Commencement.

2. This Act shall come into force on the first day of January, 1884.

ACT No. V OF 1884.

Received the Governor General's assent on the 26th February, 1884.

An Act to amend the Chota Nagpore Encumbered Estates Act, 1876.

WHEREAS it is expedient to amend the Chota Nagpore Encumbered Estates Act, 1876; It is hereby enacted as follows:— VI of 1876.

Meaning of "section".

1. "Section" in this Act means a section of the Chota Nagpore Encumbered Estates Act, 1876.

Addition to section 2 of Act VI of 1876.

2. To section 2 the following shall be added, namely:—

(See *supra*, *p 424*.)

Amendment of section 3.

3. In section 3, for the words "on such publication" the words "on the publication of an order under section 2" shall be substituted.

Addition to section 4.

4. To section 4 the following shall be added, namely:—

(See *supra*, *p 425*.)

Amendment of section 7.

5. In section 7, for the words "nine months" the words "six months" shall be substituted.

Amendment of section 12.

6. *(1)* In section 12, for the first clause the following shall be substituted:—

(See *supra*, *p 427*.)

(2) In the same section, for the second clause the following shall be substituted, namely:—

(See *supra*, *p 427*.)

(*5*) After the second clause of the same section the following shall be inserted, namely :—

(See *supra*, *p. 427*.)

7. In section 17, for the words "not exceeding twenty years absolute" the words "or in perpetuity" shall be substituted. Amendment of section 17.

8. In section 18— Amendment of section 18.

(*a*) ~~the following words shall be repealed, namely :—~~ "with the previous consent of the holder of the property and of the person (being of full age) who would be his heir if he died intestate;"

(*b*) after the words "as may appear expedient" the following shall be inserted, namely :—"or by borrowing money from the Government at such rate of interest as appears reasonable to the Local Government"; and

(*c*) for the last clause the following shall be substituted, namely :—

(See *supra*, *p. 429*.)

9. In section 19, after clause (*a*), the following shall be inserted, namely :— Addition to section 19.

(See *supra*, *p. 430*.)

10. ~~Act XII of 1877 (*an Act to amend the Chota Nagpore Encumbered Estates Act, 1876*) is hereby repealed.~~ Repeal of Act XII of 1877.

Rep. XII of 1891

THE BENGAL TENANCY ACT, 1885.

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SCHEDULE I.—REPEAL OF ENACTMENTS.

SCHEDULE II.—FORMS OF RECEIPT AND ACCOUNT.

SCHEDULE III.—LIMITATION.

ACT No. VIII OF 1885.

Received the Governor General's assent on the 14th March, 1885.

An Act to amend and consolidate certain enactments relating to the Law of Landlord and Tenant within the territories under the administration of the Lieutenant-Governor of Bengal.

WHEREAS it is expedient to amend and consolidate certain enactments relating to the Law of Landlord and Tenant within the territories under the administration of the Lieutenant-Governor of Bengal; it is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title.

1. (*1*) This Act may be called the Bengal Tenancy Act, 1885.

Commencement.

(*2*) It shall come into force on such date (hereinafter called the commencement of this Act) as the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, appoint in this behalf.[a]

Local extent.

(*3*) It shall extend by its own operation to all the territories for the time being under the administration of the Lieutenant-Governor of Bengal, except the Town of Calcutta, the Division of Orissa and the Scheduled Districts specified in the Third Part of the First Schedule of the Scheduled Districts Act, 1874; and the Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, extend the whole or any portion of this Act to the Division of Orissa or any part thereof. XIV of 1874

Repeal.

2. (*1*) The enactments specified in Schedule I hereto annexed are repealed in the territories to which this Act extends by its own operation.

(*2*) When this Act is extended to the Division of Orissa or any part thereof, such of those enactments as are in force in that Division or part, or, where a portion only of this Act is so extended, so much of them as is inconsistent with that portion, shall be repealed in that Division or part.

(*3*) Any enactment or document referring to any enactment hereby re-

[a] This Act was declared to come into force on the 1st November, 1885, by a Notification dated 4th September, 1885—see Calcutta Gazette, 9th idem, Pt. I, p. 874. This Notification was however, modified as to the commencement of ss. 61-64 and Chap. XII by Act XX of 1885, s. 1, which enacted that these portions of the Act should come into force on such date, not later than the 1st day of February, 1886, as the Local Government might appoint, or, if no such date was appointed, on the 1st February, 1886. (No such date was appointed.) Act XX of 1885 has not been reprinted, as it is spent.

pealed shall be construed to refer to this Act or to the corresponding portion thereof.

(*4*) The repeal of any enactment by this Act shall not revive any right, privilege, matter or thing not in force or existing at the commencement of this Act.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(*1*) "estate" means land included under one entry in any of the general registers of revenue-paying lands and revenue-free lands, prepared and maintained under the law for the time being in force by the Collector of a district, and includes Government khás maháls and revenue-free lands not entered in any register:

(*2*) "proprietor" means a person owning, whether in trust or for his own benefit, an estate or a part of an estate:

(*3*) "tenant" means a person who holds land under another person, and is, or but for a special contract would be, liable to pay rent for that land to that person:

(*4*) "landlord" means a person immediately under whom a tenant holds, and includes the Government:

(*5*) "rent" means whatever is lawfully payable or deliverable in money or kind by a tenant to his landlord on account of the use or occupation of the land held by the tenant;

in sections 53 to 68, both inclusive, sections 72 to 75, both inclusive, Chapter XII and Schedule III of this Act, "rent" includes also money recoverable under any enactment for the time being in force as if it was rent:

(*6*) "pay", "payable" and "payment", used with reference to rent, include "deliver", "deliverable" and "delivery:"

(*7*) "tenure" means the interest of a tenure-holder or an under-tenure-holder:

(*8*) "permanent tenure" means a tenure which is heritable and which is not held for a limited time:

(*9*) "holding" means a parcel or parcels of land held by a raiyat and forming the subject of a separate tenancy:

(*10*) "village" means an area included in a village-map of the revenue-survey within the same exterior boundary, or, where no such maps have been prepared, such area as any officer appointed by the Local Government in this behalf may determine after local inquiry held on such notice as the Local Government considers sufficient for giving information to all persons interested:

(*11*) "agricultural year" means, where the Bengali year prevails, the year commencing on the first day of Bysak, where the Fasli or Amli year prevails, the year commencing on the first day of Asin, and, where any other year prevails for agricultural purposes, that year:

(*12*) "permanent settlement" means the permanent settlement of Bengal, Behar and Orissa, made in the year 1793:

(*13*) "succession" includes both intestate and testamentary succession:

(*14*) "signed" includes "marked" when the person making the mark is unable to write his name; it also includes "stamped" with the name of the person referred to:

(*15*) "prescribed" means prescribed from time to time by the Local Government by notification in the official Gazette:

(*16*) "Collector" means the Collector of a district or any other officer appointed by the Local Government to discharge any of the functions of a Collector under this Act:

(*17*) "Revenue-officer" in any provision of this Act includes any officer whom the Local Government may appoint by name or by virtue of his office to discharge any of the functions of a Revenue-officer under that provision:

(*18*) "registered" means registered under any Act for the time being in force for the registration of documents.

CHAPTER II.

CLASSES OF TENANTS.

Classes of tenants.

4. There shall be, for the purposes of this Act, the following classes of tenants, (namely):—

(1) tenure-holders, including under-tenure-holders,

(2) raiyats, and

(3) under-raiyats, that is to say, tenants holding whether immediately or mediately under raiyats;

and the following classes of raiyats, (namely):—

(*a*) raiyats holding at fixed rates, which expression means raiyats holding either at a rent fixed in perpetuity or at a rate of rent fixed in perpetuity;

(*b*) occupancy-raiyats, that is to say, raiyats having a right of occupancy in the land held by them; and

(*c*) non-occupancy-raiyats, that is to say, raiyats not having such a right of occupancy.

Meaning of "tenure-holder" and "raiyat".

5. (*1*) "Tenure-holder" means primarily a person who has acquired from a proprietor or from another tenure-holder a right to hold land for the purpose of collecting rents or bringing it under cultivation by establishing tenants on it, and includes also the successors in interest of persons who have acquired such a right.

(*2*) "Raiyat" means primarily a person who has acquired a right to hold land for the purpose of cultivating it by himself, or by members of his family, or by hired servants, or with the aid of partners, and includes also the successors in interest of persons who have acquired such a right.

Explanation.—Where a tenant of land has the right to bring it under cultivation, he shall be deemed to have acquired a right to hold it for the purpose of cultivation notwithstanding that he uses it for the purpose of gathering the produce of it or of grazing cattle on it.

(*3*) A person shall not be deemed to be a raiyat unless he holds land either immediately under a proprietor or immediately under a tenure-holder.

(*4*) In determining whether a tenant is a tenure-holder or a raiyat, the Court shall have regard to—

(*a*) local custom; and

(*b*) the purpose for which the right of tenancy was originally acquired.

(*5*) Where the area held by a tenant exceeds one hundred standard bighás, the tenant shall be presumed to be a tenure-holder until the contrary is shown.

CHAPTER III.

TENURE-HOLDERS.

Enhancement of Rent.

Tenure held since permanent settlement liable to enhancement only in certain cases.

6. Where a tenure has been held from the time of the permanent settlement, its rent shall not be liable to enhancement except on proof—

(*a*) that the landlord under whom it is held is entitled to enhance the rent thereof either by local custom or by the conditions under which the tenure is held, or

(*b*) that the tenure-holder, by receiving reductions of his rent, otherwise than on account of a diminution of the area of the tenure, has subjected himself to the payment of the increase demanded, and that the lands are capable of affording it.

Limits of enhancement of rent of tenures.

7. (*1*) Where the rent of a tenure-holder is liable to enhancement, it may, subject to any contract between the parties, be enhanced up to the limit of the customary rate payable by persons holding similar tenures in the vicinity.

(*2*) Where no such customary rate exists, it may, subject as aforesaid, be enhanced up to such limit as the Court thinks fair and equitable.

(*3*) In determining what is fair and equitable, the Court shall not leave to the tenure-holder as profit less than ten per centum of the balance which remains after deducting from the gross rents payable to him the expenses of collecting them, and shall have regard to—

(*a*) the circumstances under which the tenure was created, for instance, whether the land comprised in the tenure, or a great portion of it, was first brought under cultivation by the agency or at the expense of the tenure-holder or his predecessors in interest, whether any fine or premium was paid on the creation of the tenure, and whether the tenure was originally created at a specially low rent for the purpose of reclamation; and

(*b*) the improvements, if any, made by the tenure-holder or his predecessors in interest.

(*4*) If the tenure-holder himself occupies any portion of the land included in the area of his tenure, or has made a grant of any portion of the land either rent-free or at a beneficial rent, a fair and equitable rent shall be calculated for that portion and included in the gross rents aforesaid.

Power to order gradual enhancement.

8. The Court may, if it thinks that an immediate increase of rent would produce hardship, direct that the enhancement shall be gradual; that is to say, that the rent shall increase yearly by degrees, for any number of years not exceeding five, until the limit of the enhancement allowed has been reached.

Rent once enhanced may not be altered for fifteen years.

9. When the rent of a tenure-holder has been enhanced by the Court or by contract, it shall not be again enhanced by the Court during the fifteen years next following the date on which it has been so enhanced.

Other Incidents of Tenures.

Permanent tenure-holder not liable to ejectment.

10. A holder of a permanent tenure shall not be ejected by his landlord except on the ground that he has broken a condition on breach of which he is, under the terms of a contract between him and his landlord, liable to be ejected:

Provided that, where the contract is made after the commencement of this Act, the condition is consistent with the provisions of this Act.

Transfer and transmission of permanent tenure.

11. Every permanent tenure shall, subject to the provisions of this Act, be capable of being transferred and bequeathed in the same manner and to the same extent as other immoveable property.

Voluntary transfer of

12. (*1*) A transfer of a permanent tenure by sale, gift or mortgage (other than a transfer by sale in execution of a decree or by summary sale under any

law relating to patni or other tenures) can be made only by a registered instrument. permanent tenure.

(*2*) A registering-officer shall not register any instrument purporting or operating to transfer by sale, gift or usufructuary[a] mortgage a permanent tenure unless there is paid to him, in addition to any fees payable under the Act for the time being in force for the registration of documents, a process-fee of the prescribed amount and a fee (hereinafter called "the landlord's fee") of the following amount, namely:—

(*a*) when rent is payable in respect of the tenure, a fee of two per centum on the annual rent of the tenure:

Provided that no such fee shall be less than one rupee or more than one hundred rupees; and

(*b*) when rent is not payable in respect of the tenure, a fee of two rupees.

(*3*) When the registration of any such instrument is complete, the registering-officer shall send to the Collector the landlord's fee and a notice of the transfer and registration in the prescribed form, and the Collector shall cause the fee to be paid to, and the notice to be served on, the landlord in the prescribed manner.

13. (*1*) When a permanent tenure is sold in execution of a decree other than a decree for arrears of rent due in respect thereof, [b]or when a mortgage of a permanent tenure, other than an usufructuary mortgage thereof, is foreclosed,[b] the Court shall, before confirming the sale under section 312 of the Code of Civil Procedure, [b]or making a decree or order absolute for the foreclosure,[b] require the purchaser [b]or mortgagee[b] to pay into Court the landlord's fee prescribed by the last foregoing section and such further fee for service of notice of the sale [b]or final foreclosure[b] on the landlord as may be prescribed. V of 1882. Transfer of permanent tenure by sale in execution of decree other than decree for rent.

(*2*) When the sale has been confirmed, [b]or the decree or order absolute for the foreclosure has been made[b], the Court shall send to the Collector the landlord's fee and a notice of the sale [b]or final foreclosure[b] in the prescribed form, and the Collector shall cause the fee to be paid to, and the notice to be served on, the landlord in the prescribed manner.

14. When a permanent tenure is transferred by sale in execution of a decree for arrears of rent due in respect thereof, the Court shall send to the Collector a notice of the sale in the prescribed form. Transfer of permanent tenure by sale in execution of decree for rent.

15. When a succession to a permanent tenure takes place, the person succeeding shall give notice of the succession to the Collector in the prescribed Succession to permanent tenure.

[a] This word in s. 12 (*2*) has been added by Act VIII of 1886, s. 1.
[b-b] These words in s. 13 have been added by Act VIII of 1886, s. 2.

form, and shall pay to the Collector the prescribed fee for the service of the notice on the landlord and the landlord's fee prescribed by section 12, and the Collector shall cause the landlord's fee to be paid to, and the notice to be served on, the landlord in the prescribed manner.

Bar to recovery of rent pending notice of succession.

16. A person becoming entitled to a permanent tenure by succession shall not be entitled to recover by suit, distraint or other proceeding any rent payable to him as the holder of the tenure, until the Collector has received the notice and fees referred to in the last foregoing section.

Transfer of, and succession to, share in permanent tenure.

17. Subject to the provisions of section 88, the foregoing sections shall apply to the transfer of, or succession to, a share in a permanent tenure.

CHAPTER IV.

RAIYATS HOLDING AT FIXED RATES.

Incidents of holding at fixed rates.

18. A raiyat holding at a rent, or rate of rent, fixed in perpetuity—

(*a*) shall be subject to the same provisions with respect to the transfer of, and succession to, his holding as the holder of a permanent tenure, and

(*b*) shall not be ejected by his landlord except on the ground that he has broken a condition consistent with this Act, and on breach of which he is, under the terms of a contract between him and his landlord, liable to be ejected.

CHAPTER V.

OCCUPANCY-RAIYATS.

General.

Continuance of existing occupancy-rights.

19. Every raiyat who immediately before the commencement of this Act has, by the operation of any enactment, by custom or otherwise, a right of occupancy in any land shall, when this Act comes into force, have a right of occupancy in that land.

Definition of "settled raiyat".

20. (*1*) Every person who for a period of twelve years, whether wholly or partly before or after the commencement of this Act, has continuously held as a raiyat land situate in any village, whether under a lease or otherwise, shall be deemed to have become, on the expiration of that period, a settled raiyat of that village.

(*2*) A person shall be deemed for the purposes of this section to have continuously held land in a village notwithstanding that the particular land held by him has been different at different times.

(*3*) A person shall be deemed, for the purposes of this section, to have held as a raiyat any land held as a raiyat by a person whose heir he is.

(*4*) Land held by two or more co-sharers as a raiyati holding shall be deemed, for the purposes of this section, to have been held as a raiyat by each such co-sharer.

(*5*) A person shall continue to be a settled raiyat of a village as long as he holds any land as a raiyat in that village and for one year thereafter.

(*6*) If a raiyat recovers possession of land under section 87, he shall be deemed to have continued to be a settled raiyat notwithstanding his having been out of possession more than a year.

(*7*) If, in any proceeding under this Act, it is proved or admitted that a person holds any land as a raiyat, it shall, as between him and the landlord under whom he holds the land, be presumed for the purposes of this section, until the contrary is proved or admitted, that he has for twelve years continuously held that land or some part of it as a raiyat.

Settled raiyats to have occupancy-rights.

21. (*1*) Every person who is a settled raiyat of a village within the meaning of the last foregoing section shall have a right of occupancy in all land for the time being held by him as a raiyat in that village.

(*2*) Every person who, being a settled raiyat of a village within the meaning of the last foregoing section, held land as a raiyat in that village at any time between the second day of March, 1883, and the commencement of this Act, shall be deemed to have acquired a right of occupancy in that land under the law then in force; but nothing in this sub-section shall affect any decree or order passed by a Court before the commencement of this Act.

Effect of acquisition of occupancy-right by landlord.

22. (*1*) When the immediate landlord of an occupancy-holding is a proprietor or permanent tenure-holder, and the entire interests of the landlord and the raiyat in the holding become united in the same person by transfer, succession or otherwise, the occupancy-right shall cease to exist; but nothing in this sub-section shall prejudicially affect the rights of any third person.

(*2*) If the occupancy-right in land is transferred to a person jointly interested in the land as proprietor or permanent tenure-holder, it shall cease to exist; but nothing in this sub-section shall prejudicially affect the rights of any third person.

(*3*) A person holding land as an ijárádár or farmer of rents shall not, while so holding, acquire a right of occupancy in any land comprised in his ijárá or farm.

Explanation.—A person having a right of occupancy in land does not lose it by subsequently becoming jointly interested in the land as proprietor or

permanent tenure-holder, or by subsequently holding the land in ijárá or farm.

Incidents of Occupancy-right.

Rights of raiyat in respect of use of land.

23. When a raiyat has a right of occupancy in respect of any land, he may use the land in any manner which does not materially impair the value of the land or render it unfit for the purposes of the tenancy; but shall not be entitled to cut down trees in contravention of any local custom.

Obligation of raiyat to pay rent.

24. An occupancy-raiyat shall pay rent for his holding at fair and equitable rates.

Protection from eviction except on specified grounds.

25. An occupancy-raiyat shall not be ejected by his landlord from his holding, except in execution of a decree for ejectment passed on the ground—

(*a*) that he has used the land comprised in his holding in a manner which renders it unfit for the purposes of the tenancy, or

(*b*) that he has broken a condition consistent with the provisions of this Act, and on breach of which he is, under the terms of a contract between himself and his landlord, liable to be ejected.

Devolution of occupancy-right on death.

26. If a raiyat dies intestate in respect of a right of occupancy, it shall, subject to any custom to the contrary, descend in the same manner as other immoveable property:

Provided that, in any case in which under the law of inheritance to which the raiyat is subject his other property goes to the Crown, his right of occupancy shall be extinguished.

Enhancement of Rent.

Presumption as to fair and equitable rent.

27. The rent for the time being payable by an occupancy-raiyat shall be presumed to be fair and equitable until the contrary is proved.

Restriction on enhancement of money-rents.

28. Where an occupancy-raiyat pays his rent in money, his rent shall not be enhanced except as provided by this Act.

Enhancement of rent by contract.

29. The money-rent of an occupancy-raiyat may be enhanced by contract, subject to the following conditions:—

(*a*) the contract must be in writing and registered;

(*b*) the rent must not be enhanced so as to exceed by more than two annas in the rupee the rent previously payable by the raiyat;

(*c*) the rent fixed by the contract shall not be liable to enhancement during a term of fifteen years from the date of the contract:

Provided as follows—

(i) Nothing in clause (*a*) shall prevent a landlord from recovering rent at

the rate at which it has been actually paid for a continuous period of not less than three years immediately preceding the period for which the rent is claimed.

(ii) Nothing in clause (*b*) shall apply to a contract by which a raiyat binds himself to pay an enhanced rent in consideration of an improvement which has been or is to be, effected in respect of the holding by, or at the expense of, his landlord, and to the benefit of which the raiyat is not otherwise entitled; but an enhanced rent fixed by such a contract shall be payable only when the improvement has been effected, and, except when the raiyat is chargeable with default in respect of the improvement, only so long as the improvement exists and substantially produces its estimated effect in respect of the holding.

(iii) When a raiyat has held his land at a specially low rate of rent in consideration of cultivating a particular crop for the convenience of the landlord, nothing in clause (*b*) shall prevent the raiyat from agreeing, in consideration of his being released from the obligation of cultivating that crop, to pay such rent as he may deem fair and equitable.

Enhancement by suit.

30. The landlord of a holding held at a money-rent by an occupancy-raiyat may, subject to the provisions of this Act, institute a suit to enhance the rent on one or more of the following grounds, namely) :—

(*a*) that the rate of rent paid by the raiyat is below the prevailing rate paid by occupancy-raiyats for land of a similar description and with similar advantages in the same village, and that there is no sufficient reason for his holding at so low a rate;

(*b*) that there has been a rise in the average local prices of staple food-crops during the currency of the present rent;

(*c*) that the productive powers of the land held by the raiyat have been increased by an improvement effected by, or at the expense of, the landlord during the currency of the present rent;

(*d*) that the productive powers of the land held by the raiyat have been increased by fluvial action.

Explanation.—"Fluvial action" includes a change in the course of a river rendering irrigation from the river practicable when it was not previously practicable.

Rules as to enhancement on ground of prevailing rate.

31. Where an enhancement is claimed on the ground that the rate of rent paid is below the prevailing rate—

(*a*) in determining what is the prevailing rate the Court shall have regard

to the rates generally paid during a period of not less than three years before the institution of the suit, and shall not decree an enhancement unless there is a substantial difference between the rate paid by the raiyat and the prevailing rate found by the Court;

(*b*) if in the opinion of the Court the prevailing rate of rent cannot be satisfactorily ascertained without a local inquiry, the Court may direct that a local inquiry be held under Chapter XXV of the Code of Civil Procedure by such Revenue-officer as the Local Government may authorize in that behalf by rules made under section 392 of the said Code; XIV of 1882

(*c*) in determining under this section the rate of rent payable by a raiyat his caste shall not be taken into consideration, unless it is proved that by local custom caste is taken into account in determining the rate; and whenever it is found that by local custom any description of raiyats hold land at favourable rates of rent, the rate shall be determined in accordance with that custom;

(*d*) in ascertaining the prevailing rate of rent the amount of any enhancement authorized on account of a landlord's improvement shall not be taken into consideration.

Rules as to enhancement on ground of rise in prices.

32. Where an enhancement is claimed on the ground of a rise in prices—

(*a*) the Court shall compare the average prices during the decennial period immediately preceding the institution of the suit with the average prices during such other decennial period as it may appear equitable and practicable to take for comparison;

(*b*) the enhanced rent shall bear to the previous rent the same proportion as the average prices during the last decennial period bear to the average prices during the previous decennial period taken for purposes of comparison:

Provided that, in calculating this proportion, the average prices during the later period shall be reduced by one-third of their excess over the average prices during the earlier period;

(*c*) if in the opinion of the Court it is not practicable to take the decennial periods prescribed in clause (*a*), the Court may, in its discretion, substitute any shorter periods therefor.

Rules as to enhancement on ground of landlord's improvement.

33. (*1*) Where an enhancement is claimed on the ground of a landlord's improvement—

(*a*) the Court shall not grant an enhancement unless the improvement has been registered in accordance with this Act;

(*b*) in determining the amount of enhancement the Court shall have regard to—

(i) the increase in the productive powers of the land caused or likely to be caused by the improvement,

(ii) the cost of the improvement,

(iii) the cost of the cultivation required for utilizing the improvement, and

(iv) the existing rent and the ability of the land to bear a higher rent.

(*2*) A decree under this section shall, on the application of the tenant or his successor in interest, be subject to reconsideration in the event of the improvement not producing or ceasing to produce the estimated effect.

Rules as to enhancement on ground of increase in productive powers due to fluvial action.

34. Where an enhancement is claimed on the ground of an increase in productive powers due to fluvial action—

(*a*) the Court shall not take into account any increase which is merely temporary or casual;

(*b*) the Court may enhance the rent to such an amount as it may deem fair and equitable, but not so as to give the landlord more than one-half of the value of the net increase in the produce of the land.

Enhancement by suit to be fair and equitable.

35. Notwithstanding anything in the foregoing sections, the Court shall not in any case decree any enhancement which is under the circumstances of the case unfair or inequitable.

Power to order progressive enhancement.

36. If the Court passing a decree for enhancement considers that the immediate enforcement of the decree in its full extent will be attended with hardship to the raiyat, it may direct that the enhancement shall be gradual; that is to say, that the rent shall increase yearly by degrees for any number of years not exceeding five until the limit of the enhancement decreed has been reached.

Limitation of right to bring successive enhancement-suits.

37. (*1*) A suit instituted for the enhancement of the rent of a holding on the ground that the rate of rent paid is below the prevailing rate, or on the ground of a rise in prices, shall not be entertained if within the fifteen years next preceding its institution the rent of the holding has been enhanced by a contract made after the second day of March, 1889, or if within the said period of fifteen years the rent has been commuted under section 40, or a decree has been passed under this Act or any enactment repealed by this Act enhancing the rent on either of the grounds aforesaid or on any ground corresponding thereto or dismissing the suit on the merits.

(*2*) Nothing in this section shall affect the provisions of section 373 of the Code of Civil Procedure.

XIV of 1882.

Reduction of Rent.

Reduction of rent.

38. (*1*) An occupancy-raiyat holding at a money-rent may institute a suit for the reduction of his rent on the following grounds, and, except as hereinafter provided in the case of a diminution of the area of the holding, not otherwise, (namely) :—

(*a*) on the ground that the soil of the holding has without the fault of the raiyat become permanently deteriorated by a deposit of sand or other specific cause, sudden or gradual, or

(*b*) on the ground that there has been a fall, not due to a temporary cause, in the average local prices of staple food-crops during the currency of the present rent.

(*2*) In any suit instituted under this section, the Court may direct such reduction of the rent as it thinks fair and equitable.

Price-lists.

Price-lists of staple food-crops.

39. (*1*) The Collector of every district shall prepare, monthly, or at shorter intervals, periodical lists of the market-prices of staple food-crops grown in such local areas as the Local Government may from time to time direct, and shall submit them to the Board of Revenue for approval or revision.

(*2*) The Collector may, if so directed by the Local Government, prepare for any local area like price-lists relating to such past times as the Local Government thinks fit, and shall submit the lists so prepared to the Board of Revenue for approval or revision.

(*3*) The Collector shall, one month before submitting a price-list to the Board of Revenue under this section, publish it in the prescribed manner within the local area to which it relates, and if any landlord or tenant of land within the local area, within the said period of one month, presents to him in writing any objection to the list, he shall submit the same to the Board of Revenue with the list.

(*4*) The price-lists shall, when approved or revised by the Board of Revenue, be published in the official Gazette ; and any manifest error in any such list discovered after its publication may be corrected by the Collector with the sanction of the Board of Revenue.

(*5*) The Local Government shall cause to be compiled from the periodical lists prepared under this section lists of the average prices prevailing throughout each year, and shall cause them to be published annually in the official Gazette.

(6) In any proceedings under this Chapter for an enhancement or reduction of rent on the ground of a rise or fall in prices, the Court shall refer to the lists published under this section, and shall presume that the prices shown in the lists prepared for any year subsequent to the passing of this Act are correct, unless and until it is proved that they are incorrect.

(7) The Local Government, subject to the control of the Governor General in Council, shall make rules for determining what are to be deemed staple food-crops in any local area and for the guidance of officers preparing price-lists under this section.

Commutation.

Commutation of rent payable in kind.

40. (1) Where an occupancy-raiyat pays for a holding rent in kind, or on the estimated value of a portion of the crop, or at rates varying with the crop, or partly in one of those ways and partly in another, either the raiyat or his landlord may apply to have the rent commuted to a money-rent.

(2) The application may be made to the Collector or Subdivisional Officer, or to an officer making a settlement of rents under Chapter X, or to any other officer specially authorized in this behalf by the Local Government.

(3) On the receipt of the application the officer may determine the sum to be paid as money-rent, and may order that the raiyat shall, in lieu of paying his rent in kind, or otherwise as aforesaid, pay the sum so determined.

(4) In making the determination the officer shall have regard to—

(*a*) the average money-rent payable by occupancy-raiyats for land of a similar description and with similar advantages in the vicinity;

(*b*) the average value of the rent actually received by the landlord during the preceding ten years or during any shorter period for which evidence may be available; and

(*c*) the charges incurred by the landlord in respect of irrigation under the system of rent in kind, and the arrangements made on commutation for continuing those charges.

(5) The order shall be in writing, shall state the grounds on which it is made, and the time from which it is to take effect, and shall be subject to appeal in like manner as if it were an order made in an ordinary revenue-proceeding.

(6) If the application is opposed, the officer shall consider whether under all the circumstances of the case it is reasonable to grant it, and shall grant or refuse it accordingly. If he refuses it, he shall record in writing the reasons for the refusal.

CHAPTER VI.

NON-OCCUPANCY-RAIYATS.

Application of chapter.

41. This chapter shall apply to raiyats not having a right of occupancy, who are in this Act referred to as non-occupancy-raiyats.

Initial rent of non-occupancy-raiyat.

42. When a non-occupancy-raiyat is admitted to the occupation of land, he shall become liable to pay such rent as may be agreed on between himself and his landlord at the time of his admission.

Conditions of enhancement of rent.

43. The rent of a non-occupancy-raiyat shall not be enhanced except by registered agreement or by agreement under section 46 :

Provided that nothing in this section shall prevent a landlord from recovering rent at the rate at which it has been actually paid for a continuous period of not less than three years immediately preceding the period for which the rent is claimed.

Grounds on which non-occupancy-raiyat may be ejected.

44. A non-occupancy-raiyat shall, subject to the provisions of this Act, be liable to ejectment on one or more of the following grounds, and not otherwise, namely :—

(*a*) on the ground that he has failed to pay an arrear of rent;

(*b*) on the ground that he has used the land in a manner which renders it unfit for the purposes of the tenancy, or that he has broken a condition consistent with this Act and on breach of which he is, under the terms of a contract between himself and his landlord, liable to be ejected;

(*c*) where he has been admitted to occupation of the land under a registered lease, on the ground that the term of the lease has expired;

(*d*) on the ground that he has refused to agree to pay a fair and equitable rent determined under section 46, or that the term for which he is entitled to hold at such a rent has expired.

Conditions of ejectment on ground of expiration of lease.

45. A suit for ejectment on the ground of the expiration of the term of a lease shall not be instituted against a non-occupancy-raiyat unless notice to quit has been served on the raiyat not less than six months before the expiration of the term, and shall not be instituted after six months from the expiration of the term.

Conditions of ejectment on ground of refusal

46. (*1*) A suit for ejectment on the ground of the refusal to agree to an enhancement of rent shall not be instituted against a non-occupancy-raiyat unless the landlord has tendered to the raiyat an agreement to pay

the enhanced rent, and the raiyat has, within three months before the institution of the suit, refused to execute the agreement. to agree to enhancement.

(*2*) A landlord desiring to tender an agreement to a raiyat under this section may file it in the office of such Court or officer as the Local Government appoints in this behalf for service on the raiyat. The Court or officer shall forthwith cause it to be served on the raiyat in the prescribed manner, and when it has been so served it shall, for the purposes of this section, be deemed to have been tendered.

(*3*) If a raiyat on whom an agreement has been served under sub-section (*2*) executes it, and within one month from the date of service files it in the office from which it issued, it shall take effect from the commencement of the agricultural year next following.

(*4*) When an agreement has been executed and filed by a raiyat under sub-section (*3*), the Court or officer in whose office it is so filed shall forthwith cause a notice of its being so executed and filed to be served on the landlord in the prescribed manner.

(*5*) If the raiyat does not execute the agreement and file it under sub-section (*3*), he shall be deemed, for the purposes of this section, to have refused to execute it.

(*6*) If a raiyat refuses to execute an agreement tendered to him under this section, and the landlord thereupon institutes a suit to eject him, the Court shall determine what rent is fair and equitable for the holding.

(*7*) If the raiyat agrees to pay the rent so determined, he shall be entitled to remain in occupation of his holding at that rent for a term of five years from the date of the agreement, but on the expiration of that term shall be liable to ejectment under the conditions mentioned in the last foregoing section, unless he has acquired a right of occupancy.

(*8*) If the raiyat does not agree to pay the rent so determined, the Court shall pass a decree for ejectment.

(*9*) In determining what rent is fair and equitable, the Court shall have regard to the rents generally paid by raiyats for land of a similar description and with like advantages in the same village.

(*10*) A decree for ejectment passed under this section shall take effect from the end of the agricultural year in which it is passed.

47. Where a raiyat has been in occupation of land and a lease is executed with a view to a continuance of his occupation, he is not to be deemed to be admitted to occupation by that lease for the purposes of this chapter, notwithstanding that the lease may purport to admit him to occupation. Explanation of "admitted to occupation".

CHAPTER VII.

UNDER-RAIYATS.

Limit of rent recoverable from under-raiyats.

48. The landlord of an under-raiyat holding at a money-rent shall not be entitled to recover rent exceeding the rent which he himself pays by more than the following percentage of the same (namely):—

(*a*) when the rent payable by the under-raiyat is payable under a registered lease or agreement—fifty per cent.; and

(*b*) in any other case—twenty-five per cent.

Restriction on ejectment of under-raiyats.

49. An under-raiyat shall not be liable to be ejected by his landlord, except—

(*a*) on the expiration of the term of a written lease;

(*b*) when holding otherwise than under a written lease, at the end of the agricultural year next following the year in which a notice to quit is served upon him by his landlord.

CHAPTER VIII.

GENERAL PROVISIONS AS TO RENT.

Rules and Presumptions as to Amount of Rent.

Rules and presumptions as to fixity of rent.

50. (*1*) Where a tenure-holder or raiyat and his predecessors in interest have held at a rent or rate of rent which has not been changed from the time of the permanent settlement, the rent or rate of rent shall not be liable to be increased except on the ground of an alteration in the area of the tenure or holding.

(*2*) If it is proved in any suit or other proceeding under this Act that either a tenure-holder or raiyat and his predecessors in interest have held at a rent or rate of rent which has not been changed during the twenty years immediately before the institution of the suit or proceeding, it shall be presumed, until the contrary is shown, that they have held at that rent or rate of rent from the time of the permanent settlement:

Provided that if it is required by or under any enactment that in any local area tenancies, or any classes of tenancies, at fixed rents or rates of rent shall be registered as such on, or before, a date specified by or under the enactment, the foregoing presumption shall not after that date apply to any tenancy or, as the case may be, to any tenancy of that class in that local area unless the tenancy has been so registered.

(*3*) The operation of this section, so far as it relates to land held by a raiyat, shall not be affected by the fact of the land having been separated from other land which formed with it a single holding, or amalgamated with other land into one holding.

(*4*) Nothing in this section shall apply to a tenure held for a term of years or determinable at the will of the landlord.

Presumption as to amount of rent and conditions of holding.

51. If a question arises as to the amount of a tenant's rent or the conditions under which he holds in any agricultural year, he shall be presumed, until the contrary is shown, to hold at the same rent and under the same conditions as in the last preceding agricultural year.

Alteration of Rent on Alteration of Area.

Alteration of rent in respect of alteration in area.

52. (*1*) Every tenant shall—

(*a*) be liable to pay additional rent for all land proved by measurement to be in excess of the area for which rent has been previously paid by him, unless it is proved that the excess is due to the addition to the tenure or holding of land which having previously belonged to the tenure or holding was lost by diluvion or otherwise without any reduction of the rent being made; and

(*b*) be entitled to a reduction of rent in respect of any deficiency proved by measurement to exist in the area of his tenure or holding as compared with the area for which rent has been previously paid by him, unless it is proved that the deficiency is due to the loss of land which was added to the area of the tenure or holding by alluvion or otherwise, and that an addition has not been made to the rent in respect of the addition to the area.

(*2*) In determining the area for which rent has been previously paid, the Court shall, if so required by any party to the suit, have regard to—

(*a*) the origin and conditions of the tenancy,—for instance, whether the rent was a consolidated rent for the entire tenure or holding;

(*b*) whether the tenant has been allowed to hold additional land in consideration of an addition to his total rent or otherwise with the knowledge and consent of the landlord;

(*c*) the length of time during which the tenancy has lasted without dispute as to rent or area; and

(*d*) the length of the measure used or in local use at the time of the origin of the tenancy as compared with that used or in local use at the time of the institution of the suit.

(*3*) In determining the amount to be added to the rent the Court shall

have regard to the rates payable by tenants of the same class for lands of a similar description and with similar advantages in the vicinity, and, in the case of a tenure-holder, to the profits to which he is entitled in respect of the rent of his tenure, and shall not in any case fix any rent which under the circumstances of the case is unfair or inequitable.

(*4*) The amount abated from the rent shall bear the same proportion to the rent previously payable as the diminution of the total yearly value of the tenure or holding bears to the previous total yearly value thereof, or, in default of satisfactory proof of the yearly value of the land lost, shall bear to the rent previously payable the same proportion as the diminution of area bears to the previous area of the tenure or holding.

Payment of Rent.

Instalments of rent.

53. Subject to agreement or established usage, a money-rent payable by a tenant shall be paid in four equal instalments falling due on the last day of each quarter of the agricultural year.

Time and place for payment of rent.

54. (*1*) Every tenant shall pay each instalment of rent before sunset of the day on which it falls due.

(*2*) The payment shall, except in cases where a tenant is allowed under this Act to deposit his rent, be made at the landlord's village-office, or at such other convenient place as may be appointed in that behalf by the landlord:

Provided that the Local Government may from time to time make rules, either generally or for any specified local area, authorizing a tenant to pay his rent by postal money-order.

(*3*) Any instalment or part of an instalment of rent not duly paid at or before the time when it falls due shall be deemed an arrear.

Appropriation of payments.

55. (*1*) When a tenant makes a payment on account of rent, he may declare the year or the year and instalment to which he wishes the payment to be credited, and the payment shall be credited accordingly.

(*2*) If he does not make any such declaration, the payment may be credited to the account of such year and instalment as the landlord thinks fit.

Receipts and Accounts.

Tenant making payment to his landlord entitled to a receipt.

56. (*1*) Every tenant who makes a payment on account of rent to his landlord shall be entitled to obtain forthwith from the landlord a written receipt for the amount paid by him, signed by the landlord.

(*2*) The landlord shall prepare and retain a counterfoil of the receipt.

(3) The receipt and counterfoil shall specify such of the several particulars

shown in the form of receipt given in Schedule II to this Act as can be specified by the landlord at the time of payment:

Provided that the Local Government may, from time to time, prescribe or sanction a modified form either generally or for any particular local area or class of cases.

(*4*) If a receipt does not contain substantially the particulars required by this section, it shall be presumed, until the contrary is shown, to be an acquittance in full of all demands for rent up to the date on which the receipt was given.

Tenant entitled to full discharge or statement of account at close of year.

57. (*1*) Where a landlord admits that all rent payable by a tenant to the end of the agricultural year has been paid, the tenant shall be entitled to receive from the landlord, free of charge, within three months after the end of the year, a receipt in full discharge of all rent falling due to the end of the year, signed by the landlord.

(*2*) Where the landlord does not so admit, the tenant shall be entitled, on paying a fee of four annas, to receive within three months after the end of the year a statement of account specifying the several particulars shown in the form of account given in Schedule II to this Act, or in such other form as may from time to time be prescribed by the Local Government either generally or for any particular local area or class of cases.

(*3*) The landlord shall prepare and retain a copy of the statement containing similar particulars.

Penalties and fine for withholding receipts and statements of account and failing to keep counterparts.

58. (*1*) If a landlord without reasonable cause refuses or neglects to deliver to a tenant a receipt containing the particulars prescribed by section 56 for any rent paid by the tenant, the tenant may, within three months from the date of payment, institute a suit to recover from him such penalty, not exceeding double the amount or value of that rent, as the Court thinks fit.

(*2*) If a landlord without reasonable cause refuses or neglects to deliver to a tenant demanding the same either the receipt in full discharge or, if the tenant is not entitled to such a receipt, the statement of account for any year prescribed in section 57, the tenant may, within the next ensuing agricultural year, institute a suit to recover from him such penalty as the Court thinks fit, not exceeding double the aggregate amount or value of all rent paid by the tenant to the landlord during the year for which the receipt or account should have been delivered.

(*3*) If a landlord without reasonable cause fails to prepare and retain a counterfoil or copy of a receipt or statement as required by either of the said sections, he shall be punished with fine which may extend to fifty rupees.

Local Gov-

59. (*1*) The Local Government shall cause to be prepared and kept for

ernment to prepare forms of receipt and account.

sale to landlords at all subdivisional offices forms of receipts with counterfoils and of statements of account suitable for use under the foregoing sections.

(2) The forms may be sold in books with the leaves consecutively numbered or otherwise as the Local Government thinks fit.

Effect of receipt by registered proprietor, manager or mortgagee.

60. Where rent is due to the proprietor, manager or mortgagee of an estate, the receipt of the person registered under the Land Registration Act, 1876, as proprietor, manager or mortgagee of that estate, or of his agent authorized in that behalf, shall be a sufficient discharge for the rent; and the person liable for the rent shall not be entitled to plead in defence to a claim by the person so registered that the rent is due to any third person. VII (B.C.) 1876.

But nothing in this section shall affect any remedy which any such third person may have against the registered proprietor, manager or mortgagee.

Deposit of Rent.

Application to deposit rent in Court.

61. (1) In any of the following cases, namely:—

(*a*) when a tenant tenders money on account of rent and the landlord refuses to receive it or refuses to grant a receipt for it;

(*b*) when a tenant bound to pay money on account of rent has reason to believe, owing to a tender having been refused or a receipt withheld on a previous occasion, that the person to whom his rent is payable will not be willing to receive it and to grant him a receipt for it;

(*c*) when the rent is payable to co-sharers jointly, and the tenant is unable to obtain the joint receipt of the co-sharers for the money, and no person has been empowered to receive the rent on their behalf; or

(*d*) when the tenant entertains a *bond fide* doubt as to who is entitled to receive the rent,

the tenant may present to the Court having jurisdiction to entertain a suit for the rent of his tenure or holding an application in writing for permission to deposit in the Court the full amount of the money then due.

(2) The application shall contain a statement of the grounds on which it is made; shall state—

in cases (*a*) and (*b*), the name of the person to whose credit the deposit is to be entered,

in case (*c*), the names of the sharers to whom the rent is due, or of so many of them as the tenant may be able to specify, and

in case (*d*), the names of the person to whom the rent was last paid and of the person or persons now claiming it;

shall be signed and verified, in the manner prescribed in section 52 of the Code of Civil Procedure, by the tenant, or, where he is not personally cog- XIV of 18

nizant of the facts of the case, by some person so cognizant; and shall be accompanied by a fee of such amount as the Local Government, from time to time, by rule, directs.

Receipt granted by Court for rent deposited to be a valid acquittance.

62. (*1*) If it appears to the Court to which an application is made under the last foregoing section that the applicant is entitled under that section to deposit the rent, it shall receive the rent and give a receipt for it under the seal of the Court.

(*2*) A receipt given under this section shall operate as an acquittance for the amount of the rent payable by the tenant and deposited as aforesaid, in the same manner and to the same extent as if that amount of rent had been received—

in cases (*a*) and (*b*) of the last foregoing section, by the person specified in the application as the person to whose credit the deposit was to be entered;

in case (*c*) of that section, by the co-sharers to whom the rent is due; and

in case (*d*) of that section, by the person entitled to the rent.

Notification of receipt of deposit.

63. (*1*) The Court receiving the deposit shall forthwith cause to be affixed in a conspicuous place at the Court-house a notification of the receipt thereof, containing a statement of all material particulars.

(*2*) If the amount of the deposit is not paid away under the next following section, within the period of fifteen days next following the date on which the notification is so affixed, the Court shall forthwith—

in cases (*a*) and (*b*) of section 61, cause a notice of the receipt of the deposit to be served, free of charge, on the person specified in the application as the person to whose credit the deposit was to be entered.

in case (*c*) of that section, cause a notice of the receipt of the deposit to be posted at the landlord's village-office or in some conspicuous place in the village in which the holding is situate; and

in case (*d*) of that section, cause a like notice to be served, free of charge, on every person who it has reason to believe claims or is entitled to the deposit.

Payment or refund of deposit.

64. (*1*) The Court may pay the amount of the deposit to any person appearing to it to be entitled to the same, or may, if it thinks fit, retain the amount pending the decision of a Civil Court as to the person so entitled.

(*2*) The payment may, if the Local Government so direct, be made by postal money-order.

(*3*) If no payment is made under this section before the expiration of three years from the date on which a deposit is made, the amount deposited may, in the absence of any order of a Civil Court to the contrary, be repaid to the

depositor upon his application and on his returning the receipt given by the Court with which the rent was deposited.

(*4*) No suit or other proceeding shall be instituted against the Secretary of State for India in Council, or against any officer of the Government, in respect of anything done by a Court receiving a deposit under the foregoing sections; but nothing in this section shall prevent any person entitled to receive the amount of any such deposit from recovering the same from a person to whom it has been paid under this section.

Arrears of Rent.

Liability to sale for arrears in case of permanent tenure, holding at fixed rates or occupancy-holding.

65. Where a tenant is a permanent tenure-holder, a raiyat holding at fixed rates or an occupancy-raiyat, he shall not be liable to ejectment for arrears of rent, but his tenure or holding shall be liable to sale in execution of a decree for the rent thereof, and the rent shall be a first charge thereon.

Ejectment for arrears in other cases.

66. (*1*) When an arrear of rent remains due from a tenant not being a permanent tenure-holder, a raiyat holding at fixed rates or an occupancy-raiyat, at the end of the Bengali year where that year prevails, or at the end of the month of Jeyt where the Fasli or Amli year prevails, the landlord may, whether he has obtained a decree for the recovery of the arrear or not, and whether he is entitled by the terms of any contract to eject the tenant for arrears or not, institute a suit to eject the tenant.

(*2*) In a suit for ejectment for an arrear of rent a decree passed in favour of the plaintiff shall specify the amount of the arrear and of the interest (if any) due thereon, and the decree shall not be executed if that amount and the costs of the suit are paid into Court within fifteen days from the date of the decree, or, when the Court is closed on the fifteenth day, on the day upon which the Court reopens.

(*3*) The Court may for special reasons extend the period of fifteen days mentioned in this section.

Interest on arrears.

67. An arrear of rent shall bear simple interest at the rate of twelve per centum per annum from the expiration of that quarter of the agricultural year in which the instalment falls due to the institution of the suit.

Power to award damages on rent withheld without reasonable cause or to defendant improperly sued for rent.

68. (*1*) If, in any suit brought for the recovery of arrears of rent, it appears to the Court that the defendant has, without reasonable or probable cause, neglected or refused to pay the amount of rent due by him, the Court may award to the plaintiff, in addition to the amount decreed for rent and costs, such damages, not exceeding twenty-five per centum on the amount of rent decreed, as it thinks fit:

Provided that interest shall not be decreed when damages are awarded under this section.

(2) If, in any suit brought for the recovery of arrears of rent, it appears to the Court that the plaintiff has instituted the suit without reasonable or probable cause, the Court may award to the defendant, by way of damages, such sum, not exceeding twenty-five per centum on the whole amount claimed by the plaintiff, as it thinks fit.

Produce-rents.

Order for appraising or dividing produce.

69. (1) Where rent is taken by appraisement or division of the produce,—

(*a*) if either the landlord or the tenant neglects to attend, either personally or by agent, at the proper time for making the appraisement or division, or

(*b*) if there is a dispute about the quantity, value or division of the produce,

the Collector may, on the application of either party, and on his depositing such sum on account of expenses as the Collector may require, make an order appointing such officer as he thinks fit to appraise or divide the produce.

(2) The Collector may, without such an application, make the like order in any case where, in the opinion of the District or Subdivisional Magistrate, the making of the order would be likely to prevent a breach of the peace.

(3) Where a Collector makes an order under this section, he may, by order, prohibit the removal of the produce until the appraisement or division has been effected.

Procedure where officer appointed.

70. (1) When a Collector appoints an officer under the last foregoing section, the Collector may, in his discretion, direct the officer to associate with himself any other persons as assessors, and may give him instructions regarding the number, qualifications and mode of selection of those assessors (if any), and the procedure to be followed in making the appraisement or division; and the officer shall conform to the instructions so given.

(2) The officer shall, before making an appraisement or division, give notice to the landlord and tenant of the time and place at which the appraisement or division will be made; but, if either the landlord or the tenant fails to attend either personally or by agent, he may proceed *ex parte*.

(3) When the officer has made the appraisement or division, he shall submit a report of his proceedings to the Collector.

(4) The Collector shall consider the report, and, after giving the parties an opportunity of being heard and making such inquiry (if any) as he may think necessary, shall pass such order thereon as he thinks just.

(5) The Collector may, if he thinks fit, refer any question in dispute between the parties for the decision of a Civil Court, but, subject as aforesaid, his order shall be final and shall, on application to a Civil Court by the landlord or the tenant, be enforceable as a decree.

(6) Where the officer makes an appraisement, the appraisement papers shall be filed in the Collector's office.

Rights and liabilities as to possession of crop.

71. (1) Where rent is taken by appraisement of the produce, the tenant shall be entitled to the exclusive possession of the produce.

(2) Where rent is taken by division of the produce the tenant shall be entitled to the exclusive possession of the whole produce until it is divided, but shall not be entitled to remove any portion of the produce from the threshing-floor at such a time or in such a manner as to prevent the due division thereof at the proper time.

(3) In either case the tenant shall be entitled to cut and harvest the produce in due course of husbandry without any interference on the part of the landlord.

(4) If the tenant removes any portion of the produce at such a time or in such a manner as to prevent the due appraisement or division thereof at the proper time, the produce shall be deemed to have been as full as the fullest crop of the same description appraised in the neighbourhood on similar land for that harvest.

Liability for Rent on Change of Landlord or after Transfer of Tenure or Holding.

Tenant not liable to transferee of landlord's interest for rent paid to former landlord, without notice of the transfer.

72. (1) A tenant shall not, when his landlord's interest is transferred, be liable to the transferee for rent which became due after the transfer and was paid to the landlord whose interest was so transferred, unless the transferee has before the payment given notice of the transfer to the tenant.

(2) Where there is more than one tenant paying rent to the landlord whose interest is transferred, a general notice from the transferee to the tenants published in the prescribed manner shall be a sufficient notice for the purposes of this section.

Liability for rent after transfer of occupancy-holding.

73. When an occupancy-raiyat transfers his holding without the consent of the landlord, the transferor and transferee shall be jointly and severally liable to the landlord for arrears of rent accruing due after the transfer, unless and until notice of the transfer is given to the landlord in the prescribed manner.

Illegal Cesses, &c.

Abwáb, &c., illegal.

74. All impositions upon tenants under the denomination of *abwáb, mahtut*

or other like appellations, in addition to the actual rent, shall be illegal, and all stipulations and reservations for the payment of such shall be void.

Penalty for exaction by landlord from tenant of sum in excess of the rent payable.

75. Every tenant from whom, except under any special enactment for the time being in force, any sum of money or any portion of the produce of his land is exacted by his landlord in excess of the rent lawfully payable, may, within six months from the date of the exaction, institute a suit to recover from the landlord, in addition to the amount or value of what is so exacted, such sum by way of penalty as the Court thinks fit, not exceeding two hundred rupees; or, when double the amount or value of what is so exacted exceeds two hundred rupees, not exceeding double that amount or value.

CHAPTER IX.

MISCELLANEOUS PROVISIONS AS TO LANDLORDS AND TENANTS.

Improvements.

Definition of "improvement".

76. (*1*) For the purposes of this Act, the term "improvement", used with reference to a raiyat's holding, shall mean any work which adds to the value of the holding, which is suitable to the holding and consistent with the purpose for which it was let, and which, if not executed on the holding, is either executed directly for its benefit, or is, after execution, made directly beneficial to it.

(*2*) Until the contrary is shown, the following shall be presumed to be improvements within the meaning of this section:—

(*a*) the construction of wells, tanks, water-channels and other works for the storage, supply or distribution of water for the purposes of agriculture, or for the use of men and cattle employed in agriculture;

(*b*) the preparation of land for irrigation;

(*c*) the drainage, reclamation from rivers or other waters, or protection from floods, or from erosion or other damage by water, of land used for agricultural purposes, or waste-land which is culturable;

(*d*) the reclamation, clearance, enclosure or permanent improvement of land for agricultural purposes;

(*e*) the renewal or reconstruction of any of the foregoing works, or alterations therein or additions thereto; and

(*f*) the erection of a suitable dwelling-house for the raiyat and his family, together with all necessary out-offices.

(*3*) But no work executed by the raiyat of a holding shall be deemed to be an improvement for the purposes of this Act if it substantially diminishes the value of his landlord's property.

Right to make improvements in case of holding at fixed rates and occupancy-holding.

77. (*1*) Where a raiyat holds at fixed rates or has an occupancy-right in his holding, neither the raiyat nor his landlord shall, as such, be entitled to prevent the other from making an improvement in respect of the holding, except on the ground that he is willing to make it himself.

(*2*) If both the raiyat and his landlord wish to make the same improvement, the raiyat shall have the prior right to make it, unless it affects another holding or other holdings under the same landlord.

Collector to decide question as to right to make improvement, &c.

78. If a question arises between the raiyat and his landlord—

(*a*) as to the right to make an improvement, or

(*b*) as to whether a particular work is an improvement,

the Collector may, on the application of either party, decide the question, and his decision shall be final.

Right to make improvements in case of non-occupancy-holding.

79. (*1*) A non-occupancy-raiyat shall be entitled to construct, maintain and repair a well for the irrigation of his holding, with all works incidental thereto, and to erect a suitable dwelling-house for himself and his family, with all necessary out-offices; but shall not, except as aforesaid and as next hereinafter provided, be entitled to make any other improvement in respect of his holding without his landlord's permission.

(*2*) A non-occupancy-raiyat who would, but for the want of his landlord's permission, be entitled to make an improvement in respect of his holding, may, if he desires that the improvement be made, deliver, or cause to be delivered, to his landlord a request in writing calling upon him to make the improvement within a reasonable time; and, if the landlord is unable or neglects to comply with that request, may make the improvement himself.

Registration of landlord's improvements.

80. (*1*) A landlord may, by application to such Revenue-officer as the Local Government may appoint, register any improvement which he has lawfully made or which has been lawfully made at his expense or which he has assisted a tenant in making.

(*2*) The application shall be in such form, shall contain such information, and shall be verified in such manner, by local inquiry or otherwise, as the Local Government from time to time by rule directs.

(*3*) The officer receiving the application may reject it if it has not been made within twelve months—

(*a*) in the case of improvements made before the commencement of this Act—from the commencement of this Act;

(*b*) in the case of improvements made after the commencement of this Act—from the date of the completion of the work.

Application to record evidence as to improvement.

81. (*1*) If any landlord or tenant of a holding desires that evidence relating to any improvement made in respect thereof be recorded, he may apply to a Revenue-officer, who shall thereupon, at a time and place of which notice shall be given to the parties, record the evidence, unless he considers that there are no reasonable grounds for making the application, or it is made to appear that the subject-matter thereof is under inquiry in a Civil Court.

(*2*) When any matter has been recorded under this section, the record thereof shall be admissible in evidence in every subsequent proceeding between the landlord and tenant or any persons claiming under them.

Compensation for raiyats' improvements.

82. (*1*) Every raiyat who is ejected from his holding shall be entitled to compensation for improvements which have been made in respect thereof in accordance with this Act by him, or by his predecessor in interest, and for which compensation has not already been paid.

(*2*) Whenever a Court makes a decree or order for the ejectment of a raiyat, it shall determine the amount of compensation (if any) due under this section to the raiyat for improvements, and shall make the decree or order of ejectment conditional on the payment of that amount to the raiyat.

(*3*) No compensation under this section for an improvement shall be claimable where the raiyat has made the improvement in pursuance of a contract or under a lease binding him, in consideration of some substantial advantage to be obtained by him to make the improvement without compensation, and he has obtained that advantage.

(*4*) Improvements made by a raiyat between the second day of March, 1883, and the commencement of this Act shall be deemed to have been made in accordance with this Act.

(*5*) The Local Government may, from time to time, by notification in the official Gazette, make rules requiring the Court to associate with itself, for the purpose of estimating the compensation to be awarded under this section for an improvement, such number of assessors as the Local Government thinks fit, and determining the qualifications of those assessors and the mode of selecting them.

Principle on which compensation is to be estimated.

83. (*1*) In estimating the compensation to be awarded under the last foregoing section for an improvement, regard shall be had—

(*a*) to the amount by which the value, or the produce, of the holding, or the value of that produce, is increased by the improvement;

(*b*) to the condition of the improvement, and the probable duration of its effects;

(*c*) to the labour and capital required for the making of such an improvement;

(*d*) to any reduction or remission of rent or any other advantage given by the landlord to the raiyat in consideration of the improvement; and,

(*e*) in the case of a reclamation or of the conversion of unirrigated into irrigated land, to the length of time during which the raiyat has had the benefit of the improvement at an unenhanced rent.

(*2*) When the amount of the compensation has been assessed, the Court may, if the landlord and raiyat agree, direct that, instead of being paid wholly in money, it shall be made wholly or partly in some other way.

Acquisition of Land for Building and other Purposes.

Acquisition of land for building and other purposes.

84. A Civil Court may, on the application of the landlord of a holding, and on being satisfied that he is desirous of acquiring the holding or part thereof for some reasonable and sufficient purpose having relation to the good of the holding or of the estate in which it is comprised, including the use of the ground as building ground, or for any religious, educational or charitable purpose,

and on being satisfied on the certificate of the Collector that the purpose is reasonable and sufficient,

authorize the acquisition thereof by the landlord upon such conditions as the Court may think fit, and require the tenant to sell his interest in the whole or such part of the holding to the landlord upon such terms as may be approved by the Court, including full compensation to the tenant.

Sub-letting.

Restrictions on sub-letting.

85. (*1*) If a raiyat sub-lets otherwise than by a registered instrument, the sub-lease shall not be valid against his landlord unless made with the landlord's consent.

(*2*) A sub-lease by a raiyat shall not be admitted to registration if it purports to create a term exceeding nine years.

(*3*) Where a raiyat has, without the consent of his landlord, granted a sub-lease by an instrument registered before the commencement of this Act, the sub-lease shall not be valid for more than nine years from the commencement of this Act.

Surrender and Abandonment.

Surrender.

86. (*1*) A raiyat not bound by a lease or other agreement for a fixed period may, at the end of any agricultural year, surrender his holding.

(*2*) But, notwithstanding the surrender, the raiyat shall be liable to indemnify the landlord against any loss of the rent of the holding for the agricultural year next following the date of the surrender, unless he gives to his landlord, at least three months before he surrenders, notice of his intention to surrender.

(*3*) When a raiyat has surrendered his holding, the Court shall in the following cases for the purposes of sub-section (*2*) presume, until the contrary is shown, that such notice was so given, namely :—

(*a*) if the raiyat takes a new holding in the same village from the same landlord during the agricultural year next following the surrender;

(*b*) if the raiyat ceases, at least three months before the end of the agricultural year at the end of which the surrender is made, to reside in the village in which the surrendered holding is situate.

(*4*) The raiyat may, if he thinks fit, cause the notice to be served through the Civil Court within the jurisdiction of which the holding or any portion of it is situate.

(*5*) When a raiyat has surrendered his holding, the landlord may enter on the holding and either let it to another tenant or take it into cultivation himself.

(*6*) When a holding is subject to an incumbrance secured by a registered instrument, the surrender of the holding shall not be valid unless it is made with the consent of the landlord and the incumbrancer.

(*7*) Save as provided in the last foregoing sub-section, nothing in this section shall affect any arrangement by which a raiyat and his landlord may arrange for a surrender of the whole or a part of the holding.

Abandonment.

87. (*1*) If a raiyat voluntarily abandons his residence without notice to his landlord and without arranging for payment of his rent as it falls due, and ceases to cultivate his holding either by himself or by some other person, the landlord may, at any time after the expiration of the agricultural year in which the raiyat so abandons and ceases to cultivate, enter on the holding and let it to another tenant or take it into cultivation himself.

(*2*) Before a landlord enters under this section, he shall file a notice in the prescribed form in the Collector's office stating that he has treated the holding as abandoned and is about to enter on it accordingly; and the Collector shall

cause a notice to be published in such manner as the Local Government, by rule, directs.

(*3*) When a landlord enters under this section, the raiyat shall be entitled to institute a suit for recovery of possession of the land at any time not later than the expiration of two years, or, in the case of a non-occupancy-raiyat, six months, from the date of the publication of the notice; and thereupon the Court may, on being satisfied that the raiyat did not voluntarily abandon his holding, order recovery of possession on such terms, if any, with respect to compensation to persons injured and payment of arrears of rent as to the Court may seem just.

(*4*) Where the whole or part of a holding has been sub-let by a registered instrument, the landlord shall, before entering under this section on the holding, offer the whole holding to the sub-lessee for the remainder of the term of the sub-lease at the rent paid by the raiyat who has ceased to cultivate the holding, and on condition of the sub-lessee paying up all arrears due from that raiyat. If the sub-lessee refuses or neglects within a reasonable time to accept the offer, the landlord may avoid the sub-lease and may enter on the holding and let it to another tenant or cultivate it himself as provided in sub-sections (*1*) and (*2*).

Subdivision of Tenancy.

Division of tenancy not binding on landlord without his consent.

88. A division of a tenure or holding, or distribution of the rent payable in respect thereof, shall not be binding on the landlord unless it is made with his consent in writing.

Ejectment.

No ejectment except in execution of decree.

89. No tenant shall be ejected from his tenure or holding except in execution of a decree.

Measurements.

Landlord's right to measure land.

90. (*1*) Subject to the provisions of this section and any contract, a landlord may, by himself, or by any person authorized by himself, enter on and measure all land comprised in his estate or tenure, other than land exempt from the payment of revenue.

(*2*) A landlord shall not, without the consent of the tenant or the written permission of the Collector, be entitled to measure land more than once in ten years, except in the following cases (namely) :—

(*a*) where the area of the tenure or holding is liable, by reason of alluvion or diluvion, to vary from year to year, and the rent payable depends on the area;

(*b*) where the area under cultivation is liable to vary from year to year and the rent payable depends on the area under cultivation;

(*c*) where the landlord is a purchaser otherwise than by voluntary transfer and not more than two years have elapsed since the date of his entry under the purchase.

(*3*) The ten years shall be computed from the date of the last measurement, whether made before or after the commencement of this Act.

Power for Court to order tenant to attend and point out boundaries.

91. (*1*) Where a landlord desires to measure any land which he is entitled to measure under the last foregoing section, the Civil Court may, on the application of the landlord, make an order requiring the tenant to attend and point out the boundaries of the land.

(*2*) If the tenant refuses or neglects to comply with the order, a map or other record of the boundaries and measurements of the land, prepared under the direction of the landlord at the time when the tenant was directed to attend, shall be presumed to be correct until the contrary is shown.

Standard of measurement.

92. (*1*) Every measurement of land made by order of a Civil Court, or of a Revenue-officer, in any suit or proceeding between a landlord and tenant, shall be made by the acre, unless the Court or Revenue-officer directs that it be made by any other specified standard.

(*2*) If the rights of the parties are regulated by any local measure other than the acre, the acre shall be converted into the local measure for the purposes of the suit or proceeding.

(*3*) The Local Government may, after local inquiry, make rules declaring for any local area the standard or standards of measurement locally in use in that area, and every declaration so made shall be presumed to be correct until the contrary is shown.

Managers.

Power to call upon co-owners to show cause why they should not appoint a common manager.

93. When any dispute exists between co-owners of an estate or tenure as to the management thereof, and in consequence there has ensued, or is likely to ensue,—

(*a*) inconvenience to the public, or

(*b*) injury to private rights,

the District Judge may, on the application in case (*a*) of the Collector, and in case (*b*) of any one having an interest in the estate or tenure, direct a notice to be served on all the co-owners, calling on them to show cause why they should not appoint a common manager:

Provided that a co-owner of an estate or tenure shall not be entitled to apply under this section unless he is actually in possession of the interest he

claims, and, if he is a co-owner of an estate, unless his name and the extent of his interest are registered under the Land Registration Act, 1876. VII (B. C.) of 1876.

Power to order them to appoint a manager if cause is not shown.

94. If the co-owners fail to show cause as aforesaid within one month after service of a notice under the last foregoing section, the District Judge may make an order directing them to appoint a common manager, and a copy of the order shall be served on any co-owner who did not appear before it was made.

Power to appoint manager if order is not obeyed.

95. If the co-owners do not, within such period, not being less than one month after the making of an order under the last foregoing section, as the District Judge may fix in this behalf, or, where the order has been served as directed by that section, within a like period after such service, appoint a common manager and report the appointment for the information of the District Judge, the District Judge may, unless it is shown to his satisfaction that there is a prospect of a satisfactory arrangement being made within a reasonable time,—

(*a*) direct that the estate or tenure be managed by the Court of Wards in any case in which the Court of Wards consents to undertake the management thereof; or

(*b*) in any case appoint a manager.

Power to nominate person to act in all cases under clause (*b*) of last section.

96. The Local Government may nominate a person for any local area to manage all estates and tenures within that local area for which it may be necessary to appoint a manager under clause (*b*) of the last foregoing section; and, when any person has been so nominated, no other person shall be appointed manager under that clause by the District Judge, unless in the case of any estate the Judge thinks fit to appoint one of the co-owners themselves as manager.

The Court of Wards Act, 1879, applicable to management by Court of Wards.

97. In any case in which the Court of Wards undertakes under section 95 the management of an estate or tenure, so much of the provisions of the Court of Wards Act, 1879, as relates to the management of immoveable property shall apply to the management. IX (B. C.) of 1879.

Provisions applicable to manager.

98. (*1*) A manager appointed under section 95 may, if the District Judge thinks fit, be remunerated by a fixed salary or percentage of the money collected by him as manager, or partly in one way and partly in the other, as the District Judge from time to time directs.

(*2*) He shall give such security for the proper discharge of his duties as the District Judge directs.

(*3*) He shall, subject to the control of the District Judge, have, for the

purposes of management, the same powers as the co-owners jointly might but for his appointment have exercised, and the co-owners shall not exercise any such power.

(*4*) He shall deal with and distribute the profits in accordance with the orders of the District Judge.

(*5*) He shall keep regular accounts, and allow the co-owners or any of them to inspect and take copies of those accounts.

(*6*) He shall pass his accounts at such period and in such form as the District Judge may direct.

(*7*) He may make any application which the proprietors could make under section 103.

(*8*) He shall be removable by the order of the District Judge, and not otherwise.

Power to restore management to co-owners.

99. When an estate or tenure has been placed under the management of the Court of Wards, or a manager has been appointed for the same under section 95, the District Judge may at any time direct that the management of it be restored to the co-owners, if he is satisfied that the management will be conducted by them without inconvenience to the public or injury to private rights.

Power to make rules.

100. The High Court may, from time to time, make rules defining the powers and duties of managers under the foregoing sections.

CHAPTER X.

Record-of-rights and Settlement of Rents.

Power to order survey and preparation of record-of-rights.

101. (*1*) The Local Government may, in any case with the previous sanction of the Governor General in Council, and may, if it thinks fit, without such sanction in any of the cases next hereinafter mentioned, make an order directing that a survey be made and a record-of-rights be prepared in respect of the lands in a local area by a Revenue-officer.

(*2*) The cases in which an order may be made under this section without the previous sanction of the Governor General in Council are the following, namely :—

(*a*) where the landlord or a large proportion of the landlords or of the tenants applies for such an order and deposits, or gives security for, such amount, for the payment of expenses, as the Local Government directs;

(*b*) where the preparation of such a record is calculated to settle or avert a serious dispute existing or likely to arise between the tenants and their landlords generally;

(*c*) where the local area is comprised in an estate or tenure which belongs to or is managed by the Government or the Court of Wards; and

(*d*) where a settlement of revenue is being made in respect of the local area.

(*3*) A notification in the official Gazette of an order under this section shall be conclusive evidence that the order has been duly made.

Particulars to be recorded.

102. Where an order is made under the last foregoing section, the particulars to be recorded shall be specified in the order, and may include, either without or in addition to other particulars, some or all of the following, namely :—

(*a*) the name of each tenant;

(*b*) the class to which he belongs, that is to say, whether he is a tenure-holder, raiyat holding at fixed rates, occupancy-raiyat, non-occupancy-raiyat or under-raiyat and, if he is a tenure-holder, whether he is a permanent tenure-holder or not, and whether his rent is liable to enhancement during the continuance of his tenure;

(*c*) the situation, quantity and boundaries of the land held by him;

(*d*) the name of his landlord;

(*e*) the rent payable;

(*f*) the mode in which that rent has been fixed—whether by contract, by order of a Court, or otherwise;

(*g*) if the rent is a gradually increasing rent, the time at which, and the steps by which, it increases;

(*h*) the special conditions and incidents, if any, of the tenancy.

Power for Revenue-officer to record particulars on application of proprietor or tenure-holder.

103. On the application of a proprietor or tenure-holder, and on his depositing or giving security for the required amount for expenses, a Revenue-officer may, subject to and in accordance with rules made in this behalf by the Local Government, ascertain and record the particulars specified in the last foregoing section with respect to the estate or tenure or any part thereof.

Procedure as to recording or settling rents.

104. (*1*) When, in any proceeding under this chapter, it does not appear that the tenant is holding land in excess of or less than that for which he is paying rent, and neither the landlord nor the tenant applies for a settlement of rent, the officer shall record the rent payable by the tenant, and the land in respect of which the rent is payable.

(*2*) When it appears that a tenant is holding land in excess of, or less than, that for which he is paying rent, or either the landlord or the tenant

applies for a settlement of rent, or in any case under section 101, sub-section (*2*), clause (*d*), the officer shall settle a fair and equitable rent in respect of the land held by the tenant.

(*3*) In settling rents under this section the officer shall presume, until the contrary is proved, that the existing rent is fair and equitable, and shall have regard to the rules laid down in this Act for the guidance of the Civil Court in increasing or reducing rents, as the case may be.

Publication of record.

105. (*1*) When the Revenue-officer has completed a record made under this chapter, he shall cause a draft thereof to be locally published in the prescribed manner and for the prescribed period, and shall receive and consider any objection which may be made to any entry therein during the period of publication.

(*2*) After the expiration of this period the Revenue-officer shall finally frame the record, and shall cause it to be locally published in the prescribed manner, and the publication shall be conclusive evidence that the record has been duly made under this chapter.

Procedure in case of dispute as to entries in record.

106. If at any time before the final publication of the record under the last foregoing section a dispute arises as to the correctness of any entry (not being an entry of a rent settled under this chapter), or as to the propriety of any omission, which the Revenue-officer proposes to make or has made therein or therefrom, the Revenue-officer shall hear and decide the dispute.

Procedure to be adopted by Revenue-officer.

107. In all proceedings for the settlement of rents under this chapter, and in all proceedings under the last foregoing section, the Revenue-officer shall, subject to rules made by the Local Government under this Act, adopt the procedure laid down in the Code of Civil Procedure for the trial of suits, and his decision in every such proceeding shall have the force of a decree.

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Appeals from decisions of Revenue-officers.

108. (*1*) The Local Government shall appoint one or more persons to be a Special Judge or Special Judges for the purpose of hearing appeals from the decisions of Revenue-officers under this chapter.

(*2*) An appeal shall lie to the Special Judge from the decision of a Revenue-officer under this chapter, and the provisions of the Code of Civil Procedure relating to appeals shall, as nearly as may be, apply to all such appeals.

(*3*) Subject to the provisions of Chapter XLII of the Code of Civil Procedure, an appeal shall lie to the High Court from the decision of a Special Judge in any case under section 106 as if he were a Court subordinate to the High Court within the meaning of the first section of that chapter:

Provided that, if in a second appeal the High Court alters the decision of the Special Judge in respect of any of the particulars with reference to which the rent of any tenure or holding has been settled, the Court may settle a new

rent for the tenure or holding, but in so doing shall be guided by the rents of the other tenures or holdings of the same class comprised in the same record as ascertained or settled under section 104.

Undisputed entries in record to be presumptive evidence.

109. (*1*) Every record made under this chapter shall distinguish between the disputed and the undisputed entries therein.

(*2*) Every undisputed entry in the record shall be presumed to be correct until the contrary is proved.

Time at which settlement of rent is to take effect

110. When any rent is settled under this chapter the settlement shall take effect from the beginning of the agricultural year next after the final publication of the record.

Stay of proceedings in Civil Court during preparation of record.

111. When an order has been made under section 101,—

(*a*) a Civil Court shall not, until the final publication of the record, entertain a suit or application for the alteration of the rent or the determination of the status of any tenant in the area to which the order applies; and

(*b*) the High Court may, if it thinks fit, transfer to the Revenue-officer any proceedings pending in a Civil Court for the alteration of any such rent or for the determination of any of the matters specified or referred to in section 102.

Power to authorize a special settlement in special cases.

112. (*1*) The Local Government, with the previous sanction of the Governor General in Council, may, on being satisfied that the exercise of the powers hereinafter mentioned is necessary in the interests of public order or of the local welfare, invest a Revenue-officer acting under this chapter with the following powers or either of them, namely :—

(*a*) power to settle all rents;

(*b*) power, when settling rents, to reduce rents if in the opinion of the officer the maintenance of existing rents would on any ground, whether specified in this Act or not, be unfair or inequitable.

(*2*) The powers given under this section may be made exercisable within a specified area either generally or with reference to specified cases or classes of cases.

(*3*) When the Local Government takes any action under this section, the settlement-record prepared by the Revenue-officer shall not take effect until it has been finally confirmed by the Governor General in Council.

Period for which rents as settled are to remain unaltered.

113. When the rent of a tenure or holding is settled under this chapter, it shall not, except on the ground of a landlord's improvement or of a subsequent alteration in the area of the tenure or holding, be enhanced, in the case of a tenure or an occupancy-holding, for fifteen years, and, in the case of a non-

occupancy-holding, if the rent if settled in any case under section 112 or on the application of the landlord under section 104, for five years. The periods of fifteen and five years shall be counted from the date of the final publication of the record.

Expenses of proceedings under chapter.

114. Where an order is made under this chapter in any case except under section 101, sub-section (*2*), clause (*d*), the expenses incurred by the Government in carrying out the provisions of this chapter in any local area, or such part of those expenses as the Local Government may direct, shall be defrayed by the landlords and tenants of land in that local area, in such proportions as the Local Government, having regard to all the circumstances of each case, may determine; and the proportion of those expenses so to be defrayed by any person shall be recoverable by the Government from him as if it were an arrear of revenue due by him.

Presumption as to fixity of rent not to apply where record has been prepared.

115. When the particulars mentioned in section 102, clause (*b*), have been recorded under this chapter in respect of any tenancy, the presumption under section 50 shall not thereafter apply to that tenancy.

CHAPTER XI.

Record of Proprietors' Private Lands.

Saving as to khámár land.

116. Nothing in Chapter V shall confer a right of occupancy in, and nothing in Chapter VI shall apply to, a proprietor's private lands known in Bengal as khámár, nij or nij-jot, and in Behar as zirát, nij, sir or kamat, where any such land is held under a lease for a term of years or under a lease from year to year.

Power for Government to order survey and record of proprietor's private lands.

117. The Local Government may, from time to time, make an order directing a Revenue-officer to make a survey and record of all the lands in a specified local area which are a proprietor's private lands within the meaning of the last foregoing section.

Power for Revenue-officer to record private land on application of proprietor or tenant.

118. In the case of any land alleged to be a proprietor's private land, on the application of the proprietor or of any tenant of the land, and on his depositing the required amount for expenses, a Revenue-officer may, subject to and in accordance with rules made in this behalf by the Local Government, ascertain and record whether the land is or is not a proprietor's private land.

Procedure for recording private land.

119. When a Revenue-officer proceeds under either of the two last foregoing sections, the provisions of sections 105 to 109, both inclusive, shall apply.

Rules for determination of proprietor's private land.

120. (*1*) The Revenue-officer shall record as a proprietor's private land—

(*a*) land which is proved to have been cultivated as khámár, zirát, sir, nij, nij-jot or kamat by the proprietor himself with his own stock or by his own servants or by hired labour for twelve continuous years immediately before the passing of this Act, and

(*b*) cultivated land which is recognized by village usage as proprietor's khámár, zirát, sir, nij, nij-jot or kamat.

(*2*) In determining whether any other land ought to be recorded as a proprietor's private land the officer shall have regard to local custom, and to the question whether the land was before the second day of March, 1883, specifically let as proprietor's private land, and to any other evidence that may be produced; but shall presume that land is not a proprietor's private land until the contrary is shown.

(*3*) If any question arises in a Civil Court as to whether land is or is not a proprietor's private land, the Court shall have regard to the rules laid down in this section for the guidance of Revenue-officers.

CHAPTER XII.

DISTRAINT.

Cases in which an application for distraint may be made.

121. Where an arrear of rent is due to the landlord of a raiyat or under-raiyat, and has not been due for more than a year, and no security has been accepted therefor by the landlord, the landlord may, in addition to any other remedy to which he is entitled by law, present an application to the Civil Court requesting the Court to recover the arrear by distraining, while in the possession of the cultivator,—

(*a*) any crops or other products of the earth standing or ungathered on the holding;

(*b*) any crops or other products of the earth which have been grown on the holding and have been reaped or gathered and are deposited on the holding, or on a threshing-floor or place for treading out grain, or the like, whether in the fields or within a homestead;

Provided that an application shall not be made under this section—

(*1*) by a proprietor or manager as defined under the Land Registration Act, 1876, or a mortgagee of such a proprietor or manager, unless his name and the extent of his interest in the land in respect of which the arrear is due have been registered under the provisions of that Act; or VII (B C 1876.

(*2*) for the recovery of any sum in excess of the rent payable for the holding in the preceding agricultural year, unless that sum is payable under a written contract or in consequence of a proceeding under this Act or an enactment hereby repealed; or

(*3*) in respect of the produce of any part of the holding which the tenant has sub-let with the written consent of the landlord.

Form of application.

122. (*1*) Every application under the last foregoing section shall specify—

(*a*) the holding in respect of which the arrear is claimed, and the boundaries thereof, or such other particulars as may suffice for its identification;

(*b*) the name of the tenant;

(*c*) the period in respect of which the arrear is claimed;

(*d*) the amount of the arrear, with the interest, if any, claimed thereon, and, when an amount in excess of the rent payable by the tenant in the last preceding agricultural year is claimed, the contract, or proceeding, as the case may be, under which that amount is payable;

(*e*) the nature and approximate value of the produce to be distrained;

(*f*) the place where it is to be found, or such other particulars as may suffice for its identification; and

(*g*) if it is standing or ungathered, the time at which it is likely to be cut or gathered.

(*2*) The application shall be signed and verified in the manner prescribed by the Code of Civil Procedure for the signing and verification of plaints.

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Procedure on receipt of application.

123. (*1*) The applicant shall, at the time of filing an application under the foregoing sections, file in Court such documentary evidence (if any) as he may consider necessary for the purposes of the application.

(*2*) The Court may, if he thinks fit, examine the applicant, and shall, with as little delay as possible, admit the application or reject it, or permit the applicant to furnish additional evidence in support of it.

(*3*) Where a Court cannot forthwith admit or reject an application under sub-section (*2*), it may, if it thinks fit, make an order prohibiting the removal of the produce specified in the application pending the execution of an order for distraining the same or the rejection of the application.

(*4*) When an order for distraining any produce is made under this section at a considerable time before the produce is likely to be cut or gathered, the Court may suspend the execution of the order for such time as it thinks fit,

and may, as it thinks fit, make a further order prohibiting the removal of the produce pending the execution of the order for distraint.

Execution of order for distraint.

124. If an application is admitted under the last foregoing section, the Court shall depute an officer to distrain the produce specified therein, or such portion of that produce as it thinks fit; and the officer shall proceed to the place where the produce is, and distrain the produce by taking charge of it himself or placing some other person in charge of it in his behalf, and publishing a notification of the distraint in accordance with rules to that effect to be made by the High Court:

Provided that produce which from its nature does not admit of being stored shall not be distrained under this section at any time less than twenty days before the time when it would be fit for reaping or gathering.

Service of demand and account.

125. (*1*) The distraining officer shall, at the time of making the distraint, serve on the defaulter a written demand for the arrear due, and the costs incurred in making the distraint, with an account exhibiting the grounds on which the distraint is made.

(*2*) Where the distraining officer has reason to believe that a person other than the defaulter is the owner of the property distrained, he shall serve copies of the demand and account on that person likewise.

(*3*) The demand and account shall, if practicable, be served personally; but if a person on whom they are to be served absconds or conceals himself, or cannot otherwise be found, the officer shall affix copies of the demand and account on a conspicuous part of the outside of the house in which he usually resides.

Right to reap, &c., produce.

126. (*1*) A distraint under this chapter shall not prevent any person from reaping, gathering or storing any produce, or doing any other act necessary for its due preservation.

(*2*) If the person entitled to do so fails to do so at the proper time, the distraining officer shall cause any standing crops or ungathered products distrained to be reaped or gathered when ripe, and stored in such granaries or other places as are commonly used for the purpose, or in some other convenient place in the neighbourhood, or shall do whatever else may be necessary for the due preservation of the same.

(*3*) In either case the distrained property shall remain in the charge of the distraining officer, or of some other person appointed by him in this behalf.

Sale proclamation to be issued unless demand is satisfied.

127. (*1*) Unless the demand, with all costs of the distraint, be immediately satisfied, the distraining officer shall issue a proclamation specifying the particulars of the property distrained and the demand for which it is dis-

trained, and notifying that he will, at a place and on a day specified, not being less than three or more than seven days after the time of making the distraint, sell the distrained property by public auction:

Provided that, when the crops or products distrained from their nature admit of being stored but have not yet been stored, the day of the sale shall be so fixed as to admit of their being made ready for storing before its arrival.

(*2*) The proclamation shall be stuck up on a conspicuous place in the village in which the land is situate for which the arrears of rent are claimed.

Place of sale.

128. The sale shall be held at the place where the distrained property is, or at the nearest place of public resort if the distraining officer is of opinion that it is likely to sell there to better advantage.

When produce may be sold standing.

129. (*1*) Crops or products which from their nature admit of being stored shall not be sold before they are reaped or gathered and are ready for storing.

(*2*) Crops or products which from their nature do not admit of being stored may be sold before they are reaped or gathered, and the purchaser shall be entitled to enter on the land by himself, or by any person appointed by him in this behalf, and do all that is necessary for the purpose of tending and reaping or gathering them.

Manner of sale.

130. The property shall be sold by public auction, in one or more lots as the officer holding the sale may think advisable; and if the demand, with the costs of distraint and sale, is satisfied by the sale of a portion of the property, the distraint shall be immediately withdrawn with respect to the remainder.

Postponement of sale.

131. If, on the property being put up for sale, a fair price (in the estimation of the officer holding the sale) is not offered for it, and if the owner of the property, or a person authorized to act in his behalf, applies to have the sale postponed till the next day, or (if a market is held at the place of sale) the next market-day, the sale shall be postponed until that day, and shall be then completed, whatever price may be offered for the property.

Payment of purchase-money.

132. The price of every lot shall be paid at the time of sale, or as soon thereafter as the officer holding the sale directs, and in default of such payment the property shall be put up again and sold.

Certificate to be given to purchaser.

133. When the purchase-money has been paid in full, the officer holding the sale shall give the purchaser a certificate describing the property purchased by him and the price paid.

Proceeds of sale how to be applied.

134. (*1*) From the proceeds of every sale of distrained property under this chapter the officer holding the sale shall pay the costs of the distraint and

sale, calculated on a scale of charges prescribed by rules to be made, from time to time, by the Local Government in this behalf.

(*2*) The remainder shall be applied to the discharge of the arrear for which the distress was made, with interest thereon up to the day of sale; and the surplus (if any) shall be paid to the person whose property has been sold.

Certain persons may not purchase.

135. Officers holding sales of property under this Act, and all persons employed by, or subordinate to, such officers, are prohibited from purchasing, either directly or indirectly, any property sold by such officers.

Procedure where demand is paid before the sale.

136. (*1*) If at any time after a distraint has been made under this chapter, and before the sale of the distrained property, the defaulter, or the owner of the distrained property where he is not the defaulter, deposits in the Court issuing the order of distraint, or in the hands of the distraining officer, the amount specified in the demand served under section 125, with all costs which may have been incurred after the service of the demand, the Court or officer, as the case may be, shall grant a receipt for the same and the distraint shall forthwith be withdrawn.

(*2*) When the distraining officer receives the deposit, he shall forthwith pay it into the Court.

(*3*) A receipt granted under this section to an owner of distrained property not being the defaulter shall afford a full protection to him against any subsequent claim for the arrears of rent on account of which the distraint was made.

(*4*) After the expiration of one month from the date of a deposit being made under this section, the Court shall pay therefrom to the applicant for distraint the amount due to him, unless in the meanwhile the owner of the property distrained has instituted a suit against the applicant contesting the legality of the distraint and claiming compensation in respect of the same.

(*5*) A landlord shall not be deemed to have consented to his tenant's subletting the holding or any part thereof merely by reason of his having received an amount deposited under this section by an inferior tenant.

Amount paid by under-tenant for his lessor may be deducted from rent.

137. (*1*) When an inferior tenant, on his property being lawfully distrained under this chapter for the default of a superior tenant, makes any payment under the last foregoing section, he shall be entitled to deduct the amount of that payment from any rent payable by him to his immediate landlord, and that landlord, if he is not the defaulter, shall in like manner be entitled to deduct the amount so deducted from any rent payable by him to his immediate landlord, and so on until the defaulter is reached.

(*2*) Nothing in this section shall affect the right of an inferior tenant

making a payment under the last foregoing section to institute a suit for the recovery from the defaulter of any portion of the amount paid which he has not deducted under this section.

Conflict between rights of superior and inferior landlords.

138. When land is sub-let, and any conflict arises under this chapter between the rights of a superior and of an inferior landlord who distrain the same property, the right of the superior landlord shall prevail.

Distraint of property which is under attachment.

139. When any conflict arises between an order for distraint issued under this chapter and an order issued by a Civil Court for the attachment or sale of the property which is the subject of the distraint, the order for distraint shall prevail; but, if the property is sold under that order, the surplus proceeds of the sale shall not be paid under section 134 to the owner of the property without the sanction of the Court by which the order of attachment or sale was issued.

Suit for compensation for wrongful distraint.

140. No appeal shall lie from any order passed by a Civil Court under this chapter; but any person whose property is distrained on an application made under section 121 in any case in which such an application is not permitted by that section may institute a suit against the applicant for the recovery of compensation.

Power for Local Government to authorize distraint in certain cases.

141. (*1*) When the Local Government is of opinion that in any local area or in any class of cases it would, by reason of the character of the cultivation or the habits of the cultivators, be impracticable for a landlord to realize his rent by an application under this chapter to the Civil Court, it may, from time to time, by order, authorize the landlord to distrain, by himself or his agent, any produce for the distraint of which he would be entitled to apply under this chapter to the Civil Court:

Provided that every person distraining any produce under such authorization shall proceed in the manner prescribed by section 124, and shall forthwith give notice, in such form as the High Court may, by rule, prescribe, to the Civil Court having jurisdiction to entertain an application for distraining the produce, and that Court shall, with no avoidable delay, depute an officer to take charge of the produce distrained.

(*2*) When an officer of the Court has taken charge of any distrained produce under this section, the proceedings shall thereafter be conducted in all respects as if he had distrained it under section 124.

(*3*) The Local Government may at any time rescind any order made by it under this section.

Power for High Court to make rules.

142. The High Court may, from time to time, make rules consistent with this Act for regulating the procedure in all cases under this chapter.

CHAPTER XIII.

JUDICIAL PROCEDURE.

Power to modify Civil Procedure Code in its application to landlord and tenant suits.

143. (*1*) The High Court may, from time to time, with the approval of the Governor General in Council, make rules consistent with this Act declaring that any portions of the Code of Civil Procedure shall not apply to suits between landlord and tenant as such or to any specified classes of such suits, or shall apply to them subject to modifications specified in the rules. XIV of 188

(*2*) Subject to any rules so made, and subject also to the other provisions of this Act, the Code of Civil Procedure shall apply to all such suits.

Jurisdiction in proceedings under Act.

144. (*1*) The cause of action in all suits between landlord and tenant as such shall, for the purposes of the Code of Civil Procedure, be deemed to have arisen within the local limits of the jurisdiction of the Civil Court which would have jurisdiction to entertain a suit for the possession of the tenure or holding in connection with which the suit is brought.

(*2*) When under this Act a Civil Court is authorized to make an order on the application of a landlord or a tenant, the application shall be made to the Court which would have jurisdiction to entertain a suit for the possession of the tenure or holding in connection with which the application is brought.

Naibs or gumáshtas to be recognized agents.

145. Every náib or gumáshta of a landlord empowered in this behalf by a written authority under the hand of the landlord shall, for the purposes of every such suit or application, be deemed to be the recognized agent of the landlord within the meaning of the Code of Civil Procedure, notwithstanding that the landlord may reside within the local limits of the jurisdiction of the Court in which the suit is to be instituted or is pending, or in which the application is made.

Special register of suits.

146. The particulars referred to in section 58 of the Code of Civil Procedure shall, in the case of such suits, instead of being entered in the register of civil suits prescribed by that section, be entered in a special register to be kept by each Civil Court, in such form as the Local Government may, from time to time, prescribe in this behalf.

Successive rent-suits.

147. Subject to the provisions of section 373 of the Code of Civil Procedure, where a landlord has instituted a suit against a raiyat for the recovery of any rent of his holding, the landlord shall not institute another suit against him for the recovery of any rent of that holding until after three months from the date of the institution of the previous suit.

Procedure in rent-suits.

148. The following rules shall apply to suits for the recovery of rent:—

(*a*) sections 121 to 127 (both inclusive,) 129, 305 and 320 to 326 (both inclusive) of the Code of Civil Procedure shall not apply to any such suit;

(*b*) the plaint shall contain, in addition to the particulars specified in section 50 of the Code of Civil Procedure, a statement of the situation, designation, extent and boundaries of the land held by the tenant; or, where the plaintiff is unable to give the extent or boundaries, in lieu thereof a description sufficient for identification:

XIV of 1882.

(*c*) the summons shall be for the final disposal of the suit, unless the Court is of opinion that the summons should be for the settlement of issues only:

(*d*) the service of the summons may, if the High Court by rule, either generally, or specially for any local area, so directs, be effected either in addition to, or in substitution for, any other mode of service, by forwarding the summons by post in a letter addressed to the defendant and registered under Part III of the Indian Post Office Act, 1866;

XIV of 1866.

when a summons is so forwarded in a letter, and it is proved that the letter was duly posted and registered, the Court may presume that the summons has been duly served:

(*e*) a written statement shall not be filed without the leave of the Court:

(*f*) the rules for recording the evidence of witnesses prescribed by section 189 of the Code of Civil Procedure shall apply, whether an appeal is allowed or not:

(*g*) the Court may, when passing the decree, order on the oral application of the decree-holder the execution thereof, unless it is a decree for ejectment for arrears:

(*h*) notwithstanding anything contained in section 232 of the Code of Civil Procedure, an application for the execution of a decree for arrears obtained by a landlord shall not be made by an assignee of the decree unless the landlord's interest in the land has become and is vested in him.

Payment into Court of money admitted to be due to third person.

149. (*1*) When a defendant admits that money is due from him on account of rent, but pleads that it is due not to the plaintiff but to a third person, the Court shall, except for special reasons to be recorded in writing, refuse to take cognizance of the plea unless the defendant pays into Court the amount so admitted to be due.

(*2*) Where such a payment is made the Court shall forthwith cause notice of the payment to be served on the third person.

(*3*) Unless the third person within three months from the receipt of the notice institutes a suit against the plaintiff and therein obtains an order

restraining payment out of the money, it shall be paid out to the plaintiff on his application.

(*4*) Nothing in this section shall affect the right of any person to recover from the plaintiff money paid to him under sub-section (*3*).

Payment into Court of money admitted to be due to landlord.

150. When a defendant admits that money is due from him to the plaintiff on account of rent, but pleads that the amount claimed is in excess of the amount due, the Court shall, except for special reasons to be recorded in writing, refuse to take cognizance of the plea unless the defendant pays into Court the amount so admitted to be due.

Provisions as to payment of portion of money.

151. When a defendant is liable to pay money into Court under either of the two last foregoing sections, if the Court thinks that there are sufficient reasons for so ordering, it may take cognizance of the defendant's plea on his paying into Court such reasonable portion of the money as the Court directs.

Court to grant receipt.

152. When a defendant pays money into Court under either of the said sections, the Court shall give the defendant a receipt, and the receipt so given shall operate as an acquittance in the same manner and to the same extent as if it had been given by the plaintiff or the third person, as the case may be.

Appeals in rent-suits.

153. An appeal shall not lie from any decree or order passed, whether in the first instance or on appeal, in any suit instituted by a landlord for the recovery of rent where—

(*a*) the decree or order is passed by a District Judge, Additional Judge or Subordinate Judge, and the amount claimed in the suit does not exceed one hundred rupees, or

(*b*) the decree or order is passed by any other judicial officer specially empowered by the Local Government to exercise final jurisdiction under this section, and the amount claimed in the suit does not exceed fifty rupees;

unless in either case the decree or order has decided a question relating to title to land or to some interest in land as between parties having conflicting claims thereto, or a question of a right to enhance or vary the rent of a tenant, or a question of the amount of rent annually payable by a tenant:

Provided that the District Judge may call for the record of any case in which a judicial officer as aforesaid has passed a decree or order to which this section applies, if it appears that the judicial officer has exercised a jurisdiction not vested in him by law, or has failed to exercise a jurisdiction so vested, or has acted in the exercise of his jurisdiction illegally or with material irregularity; and may pass such order as the District Judge thinks fit.

Date from which decree for enhance-

154. A decree for enhancement of rent under this Act, if passed in a suit instituted in the first eight months of an agricultural year, shall ordinarily

take effect on the commencement of the agricultural year next following; and, if passed in a suit instituted in the last four months of the agricultural year, shall ordinarily take effect on the commencement of the agricultural year next but one following; but nothing in this section shall prevent the Court from fixing, for special reasons, a later date from which any such decree shall take effect. ment takes effect.

155. (*1*) A suit for the ejectment of a tenant, on the ground— Relief against forfeitures.

(*a*) that he has used the land in a manner which renders it unfit for the purposes of the tenancy, or

(*b*) that he has broken a condition on breach of which he is, under the terms of a contract between him and the landlord, liable to ejectment,

shall not be entertained unless the landlord has served, in the prescribed manner, a notice on the tenant specifying the particular misuse or breach complained of, and, where the misuse or breach is capable of remedy, requiring the tenant to remedy the same, and, in any case, to pay reasonable compensation for the misuse or breach, and the tenant has failed to comply within a reasonable time with that request.

(*2*) A decree passed in favour of a landlord in any such suit shall declare the amount of compensation which would reasonably be payable to the plaintiff for the misuse or breach, and whether, in the opinion of the Court, the misuse or breach is capable of remedy, and shall fix a period during which it shall be open to the defendant to pay that amount to the plaintiff, and, where the misuse or breach is declared to be capable of remedy, to remedy the same.

(*3*) The Court may, from time to time, for special reasons, extend a period fixed by it under sub-section (*2*).

(*4*) If the defendant, within the period or extended period (as the case may be) fixed by the Court under this section, pays the compensation mentioned in the decree, and, where the misuse or breach is declared by the Court to be capable of remedy, remedies the misuse or breach to the satisfaction of the Court, the decree shall not be executed.

156. The following rules shall apply in the case of every raiyat ejected from a holding:— Rights of ejected raiyats in respect of crops and land prepared for sowing.

(*a*) when the raiyat has, before the date of his ejectment, sown or planted crops in any land comprised in the holding, he shall be entitled, at the option of the landlord, either to retain possession of that land and to use it for the purpose of tending and gathering in the crops, or to receive from the landlord the value of the crops as estimated by the Court executing the decree for ejectment;

(*b*) when the raiyat has, before the date of his ejectment, prepared for sowing any land comprised in his holding, but has not sown or planted crops in that land, he shall be entitled to receive from the landlord the value of the labour and capital expended by him in so preparing the land, as estimated by the Court executing the decree for ejectment, together with reasonable interest on that value;

(*c*) but a raiyat shall not be entitled to retain possession of any land or receive any sum in respect thereof under this section where, after the commencement of proceedings by the landlord for his ejectment, he has cultivated or prepared the land contrary to local usage;

(*d*) if the landlord elects under this section to allow a raiyat to retain possession of the land, the raiyat shall pay to the landlord, for the use and occupation of the land during the period for which he is allowed to retain possession of the same, such rent as the Court executing the decree for ejectment may deem reasonable.

Power for Court to fix fair rent as alternative to ejectment.

157. When a plaintiff institutes a suit for the ejectment of a trespasser he may, if he thinks fit, claim as alternative relief that the defendant be declared liable to pay for the land in his possession a fair and equitable rent to be determined by the Court, and the Court may grant such relief accordingly.

Application to determine incidents of tenancy.

158. (*1*) The Court having jurisdiction to determine a suit for the possession of land may, on the application of either the landlord or the tenant of the land, determine all or any of the following matters, namely:—

(*a*) the situation, quantity and boundaries of the land;

(*b*) the name and description of the tenant thereof (if any);

(*c*) the class to which he belongs, that is to say, whether he is a tenure-holder, raiyat holding at fixed rates, occupancy-raiyat, non-occupancy-raiyat, or under-raiyat, and, if he is a tenure-holder, whether he is a permanent tenure-holder or not, and whether his rent is liable to enhancement during the continuance of his tenure; and

(*d*) the rent payable by him at the time of the application.

(*2*) If, in the opinion of the Court, any of these matters cannot be satisfactorily determined without a local inquiry, the Court may direct that a local inquiry be held under Chapter XXV of the Code of Civil Procedure by such Revenue-officer as the Local Government may authorize in that behalf by rule made under section 392 of the said Code. XIV of 1882.

(*3*) The order on any application under this section shall have the effect of, and be subject to the like appeal as, a decree.

CHAPTER XIV.

SALE FOR ARREARS UNDER DECREE.

General powers of purchaser as to avoidance of incumbrances.

159. Where a tenure or holding is sold in execution of a decree for arrears due in respect thereof, the purchaser shall take subject to the interests defined in this chapter as "protected interests", but with power to annul the interests defined in this chapter as "incumbrances":

Provided as follows:—

(*a*) a registered and notified incumbrance within the meaning of this chapter shall not be so annulled except in the case hereinafter mentioned in that behalf;

(*b*) the power to annul shall be exercisable only in manner by this chapter directed.

Protected interests.

160. The following shall be deemed to be protected interests within the meaning of this chapter:—

(*a*) any under-tenure existing from the time of the permanent settlement;

(*b*) any under-tenure recognized by the settlement-proceedings of any current temporary settlement as a tenure at a rent fixed for the period of that settlement;

(*c*) any lease of land whereon dwelling-houses, manufactories or other permanent buildings have been erected, or permanent gardens, plantations, tanks, canals, places of worship or burning or burying grounds have been made;

(*d*) any right of occupancy;

(*e*) the right of a non-occupancy-raiyat to hold for five years at a rent fixed under Chapter VI by a Court, or under Chapter X by a Revenue-officer;

(*f*) any right conferred on an occupancy-raiyat to hold at a rent which was a fair and reasonable rent at the time the right was conferred; and

(*g*) any right or interest which the landlord at whose instance the tenure or holding is sold, or his predecessor in title, has expressly and in writing given the tenant for the time being permission to create.

Meaning of "incumbrance" and "registered and notified incumbrance".

161. For the purposes of this chapter—

(*a*) the term "incumbrance", used with reference to a tenancy, means any lien, sub-tenancy, easement or other right or interest created by the tenant on his tenure or holding or in limitation of his own

interest therein, and not being a protected interest as defined in the last foregoing section;

(*b*) the term "registered and notified incumbrance", used with reference to a tenure or holding sold or liable to sale in execution of a decree for an arrear of rent due in respect thereof, means an incumbrance created by a registered instrument of which a copy has, not less than three months before the accrual of the arrear, been served on the landlord in manner hereinafter provided.

Application for sale of tenure or holding.

162. When a decree has been passed for an arrear of rent due for a tenure or holding, and the decree-holder applies under section 235 of the Code of Civil Procedure for the attachment and sale of the tenure or holding in execution of the decree, he shall produce a statement showing the pergunnah, estate and village in which the land comprised in the tenure or holding is situate, the yearly rent payable for the same and the total amount recoverable under the decree. XIV of 1882.

Order of attachment and proclamation of sale to be issued simultaneously.

163. (*1*) Notwithstanding anything contained in the Code of Civil Procedure, when the decree-holder makes the application mentioned in the last foregoing section, the Court shall, if under section 245 of the said Code it admits the application and orders execution of the decree as applied for, issue simultaneously the order of attachment and the proclamation required by section 287 of the said Code.

(*2*) The proclamation shall, in addition to stating and specifying the particulars mentioned in section 287 of the said Code, announce—

(*a*) in the case of a tenure or a holding of a raiyat holding at fixed rates, that the tenure or holding will first be put up to auction subject to the registered and notified incumbrances, and will be sold subject to those incumbrances if the sum bid is sufficient to liquidate the amount of the decree and costs, and that otherwise it will, if the decree-holder so desires, be sold on a subsequent day, of which due notice will be given, with power to annul all incumbrances; and

(*b*) in the case of an occupancy-holding, that the holding will be sold with power to annul all incumbrances.

(*3*) The proclamation shall, besides being made in the manner prescribed by section 289 of the said Code, be published by fixing up a copy thereof in a conspicuous place on the land comprised in the tenure or holding ordered to be sold, and shall also be published in such manner as the Local Government may, from time to time, direct in this behalf.

(*4*) Notwithstanding anything contained in section 290 of the said Code, the sale shall not, without the consent in writing of the judgment-debtor, take

place until after the expiration of at least thirty days, calculated from the date on which the copy of the proclamation has been fixed up on the land comprised in the tenure or holding ordered to be sold.

Sale of tenure or holding subject to registered and notified incumbrances, and effect thereof.

164. (*1*) When a tenure or a holding at fixed rates has been advertised for sale under the last foregoing section, it shall be put up to auction, subject to registered and notified incumbrances; and, if the bidding reaches a sum sufficient to liquidate the amount of the decree and costs, including the costs of sale, the tenure or holding shall be sold subject to such incumbrances.

(*2*) The purchaser at a sale under this section may, in manner provided by section 167, and not otherwise, annul any incumbrance upon the tenure or holding not being a registered and notified incumbrance.

Sale of tenure or holding with power to avoid all incumbrances, and effect thereof.

165. (*1*) If the bidding for a tenure or a holding at fixed rates put up to auction under the last foregoing section does not reach a sum sufficient to liquidate the amount of the decree and costs as aforesaid, and if the decree-holder thereupon desires that the tenure or holding be sold with power to avoid all incumbrances, the officer holding the sale shall adjourn the sale and make a fresh proclamation under section 289 of the Code of Civil Procedure announcing that the tenure or holding will be put up to auction and sold with power to avoid all incumbrances upon a future day specified therein, not less than fifteen or more than thirty days from the date of the postponement; and upon that day the tenure or holding shall be put up to auction and sold with power to avoid all incumbrances.

XIV of 1882.

(*2*) The purchaser at a sale under this section may, in manner provided by section 167, and not otherwise, annul any incumbrance on the tenure or holding.

Sale of occupancy-holding with power to avoid all incumbrances, and effect thereof.

166. (*1*) When an occupancy-holding has been advertised for sale under section 163, it shall be put up to auction and sold with power to avoid all incumbrances.

(*2*) The purchaser at a sale under this section may, in manner provided by the next following section, and not otherwise, annul any incumbrance on the holding.

Procedure for annulling incumbrances under the foregoing sections.

167. (*1*) A purchaser having power to annul an incumbrance under any of the foregoing sections and desiring to annul the same may, within one year from the date of the sale or the date on which he first has notice of the incumbrance, whichever is later, present to the Collector an application in writing, requesting him to serve on the incumbrancer a notice declaring that the incumbrance is annulled.

(*2*) Every such application must be accompanied by such fee for the service of the notice as the Board of Revenue may fix in this behalf.

(3) When an application for service of a notice is made to the Collector in manner prescribed by this section, he shall cause the notice to be served in compliance therewith, and the incumbrance shall be deemed to be annulled from the date on which it is so served.

(4) When a tenure or holding is sold in execution of a decree for arrears due in respect thereof, and there is on the tenure or holding a protected interest of the kind specified in section 160, clause (*c*), the purchaser may, if he has power under this chapter to avoid all incumbrances, sue to enhance the rent of the land which is the subject of the protected interest. On proof that the land is held at a rent which was not at the time the lease was granted a fair rent, the Court may enhance the rent to such amount as appears to be fair and equitable.

This sub-section shall not apply to land which has been held for a term exceeding twelve years at a fixed rent equal to the rent of good arable land.

Power to direct that occupancy-holdings be dealt with under foregoing sections as tenures.

168. (1) The Local Government may, from time to time, by notification in the official Gazette, direct that occupancy-holdings or any specified class of occupancy-holdings in any local area put up for sale in execution of decrees for rent due on them shall, before being put up with power to avoid all incumbrances, be put up subject to registered and notified incumbrances, and may by like notification rescind any such direction.

(2) While any such direction remains in force in respect of any local area, all occupancy-holdings, or, as the case may be, occupancy-holdings of the specified class in that local area, shall, for the purposes of sale under the foregoing sections of this chapter, be treated in all respects as if they were tenures.

Rules for disposal of the sale-proceeds.

169. (1) In disposing of the proceeds of a sale under this chapter, the following rules, instead of those prescribed by section 295 of the Code of Civil Procedure, shall be observed, that is to say:— XIV of 1882

(*a*) there shall first be paid to the decree-holder the costs incurred by him in bringing the tenure or holding to sale;

(*b*) there shall, in the next place, be paid to the decree holder the amount due to him under the decree in execution of which the sale was made;

(*c*) if there remains a balance after these sums have been paid, there shall be paid to the decree-holder therefrom any rent which may have fallen due to him in respect of the tenure or holding between the institution of the suit and the date of the sale;

(*d*) the balance (if any) remaining after the payment of the rent mentioned in clause (*c*) shall, upon the expiration of two months from the

confirmation of the sale, be paid to the judgment-debtor upon his application.

(*2*) If the judgment-debtor disputes the decree-holder's right to receive any sum on account of rent under clause (*c*), the Court shall determine the dispute, and the determination shall have the force of a decree.

XIV of 1882.

170. (*1*) Sections 278 to 283 (both inclusive) of the Code of Civil Procedure shall not apply to a tenure or holding attached in execution of a decree for arrears due thereon. Tenure or holding to be released from attachment only on payment into Court of amount of decree with costs, or on confession of satisfaction by decree-holder.

(*2*) When an order for the sale of a tenure or holding in execution of such a decree has been made, the tenure or holding shall not be released from attachment unless, before it is knocked down to the auction-purchaser, the amount of the decree, including the costs decreed, together with the costs incurred in order to the sale, is paid into Court, or the decree-holder makes an application for the release of the tenure or holding on the ground that the decree has been satisfied out of Court.

(*3*) The judgment-debtor or any person having in the tenure or holding any interest voidable on the sale may pay money into Court under this section.

171. (*1*) When any person having, in a tenure or holding advertised for sale under this chapter, an interest which would be voidable upon the sale, pays into Court the amount requisite to prevent the sale,— Amount paid into Court to prevent sale to be in certain cases a mortgage-debt on the tenure or holding.

(*a*) the amount so paid by him shall be deemed to be a debt bearing interest at twelve per centum per annum and secured by a mortgage of the tenure or holding to him;

(*b*) his mortgage shall take priority of every other charge on the tenure or holding other than a charge for arrear of rent; and

(*c*) he shall be entitled to possession of the tenure or holding as mortgagee of the tenant, and to retain possession of it as such until the debt, with the interest due thereon, has been discharged.

(*2*) Nothing in this section shall affect any other remedy to which any such person would be entitled.

172. When a tenure or holding is advertised for sale under this chapter in execution of a decree against a superior tenant defaulting, and an inferior tenant, whose interest would be voidable upon the sale, pays money into Court in order to prevent the sale, he may, in addition to any other remedy provided for him by law, deduct the whole or any portion of the amount so paid from any rent payable by him to his immediate landlord; and that landlord, if he is not the defaulter, may in like manner deduct the amount so deducted from any Inferior tenant paying into Court may deduct from rent.

rent payable by him to his immediate landlord, and so on until the defaulter is reached.

Decree-holder may bid at sale; judgment-debtor may not.

173. (*1*) Notwithstanding anything contained in section 294 of the Code of Civil Procedure, the holder of a decree in execution of which a tenure or holding is sold under this chapter may, without the permission of the Court, bid for or purchase the tenure or holding. XIV of 1882

(*2*) The judgment-debtor shall not bid for or purchase a tenure or holding so sold.

(*3*) When a judgment-debtor purchases by himself or through another person a tenure or holding so sold, the Court may, if it thinks fit, on the application of the decree-holder or any other person interested in the sale, by order set aside the sale, and the costs of the application and order, and any deficiency of price which may happen on the re-sale, and all expenses attending it, shall be paid by the judgment-debtor.

Application by judgment-debtor to set aside sale.

174. (*1*) Where a tenure or holding is sold for an arrear of rent due thereon, then at any time within thirty days from the date of sale the judgment-debtor may apply to have the sale set aside, on his depositing in Court, for payment to the decree-holder, the amount recoverable under the decree with costs, and, for payment to the purchaser, a sum equal to five per centum of the purchase-money.

(*2*) If such deposit is made within the thirty days, the Court shall pass an order setting aside the sale, and the provisions of section 315 of the Code of Civil Procedure shall apply in the case of a sale so set aside:

Provided that, if a judgment-debtor applies under section 311 of the Code of Civil Procedure to set aside the sale of his tenure or holding, he shall not be entitled to make an application under this section.

(*3*) Section 313 of the Code of Civil Procedure shall not apply to any sale under this chapter.

Registration of certain instruments creating incumbrances.

175. Notwithstanding anything contained in Part IV of the Indian Registration Act, 1877, an instrument creating an incumbrance upon any tenure or holding which has been executed before the commencement of this Act, and is not required by section 17 of the said Registration Act to be registered, shall be accepted for registration under that Act if it is presented for that purpose to the proper officer within one year from the commencement of this Act. III of 1877

Notification of incumbrances to landlord.

176. Every officer who has, whether before or after the passing of this Act, registered an instrument executed by a tenant of a tenure or holding and creating an incumbrance on the tenure or holding, shall, at the request of the tenant or of the person in whose favour the incumbrance is created, and on

payment by him of such fee as the Local Government may fix in this behalf, notify the incumbrance to the landlord by causing a copy of the instrument to be served on him in the prescribed manner.

177. Nothing contained in this chapter shall be deemed to enable a person to create an incumbrance which he could not otherwise lawfully create. Power to create incumbrances not extended.

CHAPTER XV.

CONTRACT AND CUSTOM.

178. (*1*) Nothing in any contract between a landlord and a tenant made before or after the passing of this Act— Restrictions on exclusion of Act by agreement.

(*a*) shall bar in perpetuity the acquisition of an occupancy-right in land, or

(*b*) shall take away an occupancy-right in existence at the date of the contract, or

(*c*) shall entitle a landlord to eject a tenant otherwise than in accordance with the provisions of this Act, or

(*d*) shall take away or limit the right of a tenant, as provided by this Act, to make improvements and claim compensation for them.

(*2*) Nothing in any contract made between a landlord and a tenant since the 15th day of July, 1880, and before the passing of this Act shall prevent a raiyat from acquiring in accordance with this Act an occupancy-right in land.

(*3*) Nothing in any contract made between a landlord and a tenant after the passing of this Act shall—

(*a*) prevent a raiyat from acquiring in accordance with this Act an occupancy-right in land;

(*b*) take away or limit the right of an occupancy-raiyat to use land as provided by section 23;

(*c*) take away the right of a raiyat to surrender his holding in accordance with section 86;

(*d*) take away the right of a raiyat to transfer or bequeath his holding in accordance with local usage;

(*e*) take away the right of an occupancy-raiyat to sub-let subject to and in accordance with the provisions of this Act;

(*f*) take away the right of a raiyat to apply for a reduction of rent under section 38 or section 52;

(*g*) take away the right of a landlord or a tenant to apply for a commutation of rent under section 40; or

(*h*) affect the provisions of section 67 relating to interest payable on arrears of rent:

Provided as follows:—

(i) nothing in this section shall affect the terms or conditions of a lease granted *bonâ fide* for the reclamation of waste land, except that, where, on or after the expiration of the term created by the lease, the lessee would under Chapter V be entitled to an occupancy-right in the land comprised in the lease, nothing in the lease shall prevent him from acquiring that right;

(ii) when a landlord has reclaimed waste land by his own servants or hired labourers, and subsequently lets the same or a part thereof to a raiyat, nothing in this Act shall affect the terms of any contract whereby a raiyat is prevented from acquiring an occupancy-right in the land or part during a period of thirty years from the date on which the land or part is first let to a raiyat;

(iii) nothing in this section shall affect the terms or conditions of any contract for the temporary cultivation of orchard land with agricultural crops.

Permanent mukarrari leases.

179. Nothing in this Act shall be deemed to prevent a proprietor or a holder of a permanent tenure in a permanently-settled area from granting a permanent mukarrari lease on any terms agreed on between him and his tenant.

Útbandi, chur and dearah lands.

180. (*1*) Notwithstanding anything in this Act, a raiyat—

(*a*) who in any part of the country where the custom of útbandi prevails, holds land ordinarily let under that custom and for the time being let under that custom, or

(*b*) who holds land of the kind known as chur or dearah,

shall not acquire a right of occupancy—

in case (*a*), in land ordinarily held under the custom of útbandi and for the time being held under that custom, or

in case (*b*), in the chur or dearah land,

until he has held the land in question for twelve continuous years; and, until he acquires a right of occupancy in the land, he shall be liable to pay such rent for his holding as may be agreed on between him and his landlord.

(*2*) Chapter VI shall not apply to raiyats holding land under the custom of útbandi in respect of land held by them under that custom.

(*3*) The Collector may, on the application of either the landlord or the

tenant or on a reference from the Civil Court, declare that any land has ceased to be chur or dearah land within the meaning of this section, and thereupon all the provisions of this Act shall apply to the land.

Saving as to service tenures.

181. Nothing in this Act shall affect any incident of a ghátwáli or other service-tenure, or, in particular, shall confer a right to transfer or bequeath a service-tenure which before the passing of this Act was not capable of being transferred or bequeathed.

Homesteads.

182. When a raiyat holds his homestead otherwise than as part of his holding as a raiyat, the incidents of his tenancy of the homestead shall be regulated by local custom or usage, and, subject to local custom or usage, by the provisions of this Act applicable to land held by a raiyat.

Saving of custom.

183. Nothing in this Act shall affect any custom, usage or customary right not inconsistent with, or not expressly or by necessary implication modified or abolished by, its provisions.

Illustrations.

(*1*) A usage under which a raiyat is entitled to sell his holding without the consent of his landlord is not inconsistent with, and is not expressly or by necessary implication modified or abolished by, the provisions of this Act. That usage, accordingly, wherever it may exist, will not be affected by this Act.

(*2*) The custom or usage that an under-raiyat should, under certain circumstances, acquire a right of occupancy is not inconsistent with, and is not expressly or by necessary implication modified or abolished by, the provisions of this Act. That custom or usage, accordingly, wherever it exists, will not be affected by this Act.

CHAPTER XVI.

LIMITATION.

Limitation in suits, appeals and applications in Schedule III.

184. (*1*) The suits, appeals and applications specified in Schedule III annexed to this Act shall be instituted and made within the time prescribed in that schedule for them respectively; and every such suit or appeal instituted, and application made, after the period of limitation so prescribed, shall be dismissed, although limitation has not been pleaded.

(*2*) Nothing in this section shall revive the right to institute any suit or appeal or make any application which would have been barred by limitation if it had been instituted or made immediately before the commencement of this Act.

Portions of the Indian Limitation Act, XV of 1877.

185. (*1*) Sections 7, 8 and 9 of the Indian Limitation Act, 1877, shall not apply to the suits and applications mentioned in the last foregoing section.

Act not applicable to such suits, &c.

(*2*) Subject to the provisions of this chapter, the provisions of the Indian Limitation Act, 1877, shall apply to all suits, appeals and applications mentioned in the last foregoing section. XV of 1877

CHAPTER XVII.

SUPPLEMENTAL.

Penalties.

Penalties for illegal interference with produce.

186. (*1*) If any person, otherwise than in accordance with this Act or some other enactment for the time being in force,—

(*a*) distrains or attempts to distrain the produce of a tenant's holding, or

(*b*) resists a distraint duly made under this Act, or forcibly or clandestinely removes any property duly distrained under this Act, or

(*c*) except with the authority or consent of the tenant, prevents or attempts to prevent the reaping, gathering, storing, removing or otherwise dealing with any produce of a holding,

he shall be deemed to have committed criminal trespass within the meaning of the Indian Penal Code. XLV of 1860

(*2*) Any person who abets within the meaning of the Indian Penal Code the doing of any act mentioned in sub-section (*1*) shall be deemed to have abetted the commission of criminal trespass within the meaning of that Code.

Agents and Representatives of Landlords.

Power for landlord to act through agent.

187. (*1*) Any appearance, application or act, in, before or to any Court or authority, required or authorized by this Act to be made or done by a landlord, may, unless the Court or authority otherwise directs, be made or done also by an agent empowered in this behalf by a written authority under the hand of the landlord.

(*2*) Every notice required by this Act to be served on, or given to, a landlord shall, if served on, or given to, an agent empowered as aforesaid to accept service of or receive the same on behalf of the landlord, be as effectual for the purposes of this Act as if it had been served on, or given to, the landlord in person.

(*3*) Every document required by this Act to be signed or certified by a landlord, except an instrument appointing or authorizing an agent, may be signed or certified by an agent of the landlord authorized in writing in that behalf.

Joint-landlords.

188. Where two or more persons are joint-landlords, anything which the

landlord is under this Act required or authorized to do must be done either by both or all those persons acting together, or by an agent authorized to act on behalf of both or all of them.

Landlords to act collectively or by common agent.

Rules under Act.

189. The Local Government may, from time to time, by notification in the official Gazette, make rules consistent with this Act—

Power to make rules regarding procedure, powers of officers and service of notices.

(*1*) to regulate the procedure to be followed by Revenue-officers in the discharge of any duty imposed upon them by or under this Act, and may by such rules confer upon any such officer—

(*a*) any power exercised by a Civil Court in the trial of suits;

(*b*) power to enter upon any land, and to survey, demarcate and make a map of the same, and any power exercisable by any officer under the Bengal Survey Act, 1875; and

V (B.C.) of 1875.

(*c*) power to cut and thresh the crops on any land and weigh the produce, with a view to estimating the capabilities of the soil; and

(*2*) to prescribe the mode of service of notices under this Act where no mode is prescribed by this or any other Act.

190. (*1*) Every authority having power to make rules under any section of this Act shall, before making the rules, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

Procedure for making, publication and confirmation of rules.

(*2*) The publication shall be made, in the case of rules made by the Local Government or High Court, in such manner as may in its opinion be sufficient for giving information to persons interested, and, in the case of rules made by any other authority, in the prescribed manner:

Provided that every such draft shall be published in the official Gazette.

(*3*) There shall be published with the draft a notice specifying a date, not earlier than the expiration of one month after the date of publication, at or after which the draft will be taken into consideration.

(*4*) The authority shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(*5*) The publication in the official Gazette of a rule purporting to be made under this Act shall be conclusive evidence that it has been duly made.

(*6*) All rules made under this Act may, from time to time, subject to the sanction (if any) required for making them, be amended, added to or cancelled by the authority having power to make the same.

Provisions as to temporarily-settled Districts.

Saving as to land held in a district not permanently settled.

191. Where the area comprised in a tenure is situate in an estate which has never been permanently settled, nothing in this Act shall prevent the enhancement of the rent upon the expiration of a temporary settlement of the revenue, unless the right to hold beyond the term of the settlement at a particular rate of rent has been expressly recognized in settlement-proceedings by a Revenue-authority empowered by the Government to make definitively or confirm settlements.

Power to alter rent in case of new assessment of revenue.

192. When a landlord grants a lease, or makes any other contract, purporting to entitle the tenant of land not included in an area permanently settled to hold that land free of rent or at a particular rent, and while the lease or contract is in force—

(*a*) land-revenue is for the first time made payable in respect of the land, or,

(*b*) land-revenue having been previously payable in respect of it, a fresh settlement of land-revenues made,

a Revenue-officer may, notwithstanding anything in the contract between the parties, by order, on the application of the landlord or of the tenant, fix a fair and equitable rent for the land in accordance with the provisions of this Act.

Rights of Pasturage, &c.

Rights of pasturage, forest-rights, &c.

193. The provisions of this Act applicable to suits for the recovery of arrears of rent shall, as far as may be, apply to suits for the recovery of anything payable or deliverable in respect of any rights of pasturage, forest-rights, rights over fisheries and the like.

Saving for Conditions binding on Landlords.

Tenant not enabled by Act to violate conditions binding on landlord.

194. Where a proprietor or permanent tenure-holder holds his estate or tenure subject to the observance of any specified rule or condition, nothing in this Act shall entitle any person occupying land within the estate or tenure to do any act which involves a violation of that rule or condition.

Savings for special Enactments.

Savings for special enactments.

195. Nothing in this Act shall affect—

(*a*) the powers and duties of Settlement-officers as defined by any law not expressly repealed by this Act;

(*b*) any enactment regulating the procedure for the realization of rents in estates belonging to the Government, or under the management of the Court of Wards or of the Revenue-authorities;

BENGAL SECRETARIAT

(*c*) any enactment relating to the avoidance of tenancies and incumbrances by a sale for arrears of the Government revenue;

(*d*) any enactment relating to the partition of revenue-paying estates;

(*e*) any enactment relating to patni tenures, in so far as it is related to those tenures; or

(*f*) any other special or local law not repealed either expressly or by necessary implication by this Act.

Construction of Act.

196. This Act shall be read subject to every Act passed after its commencement by the Lieutenant-Governor of Bengal in Council.

Act to be read subject to Acts hereafter passed by Lieutenant-Governor of Bengal in Council.

SCHEDULE I.

(*See section 2.*)

REPEAL OF ENACTMENTS.

Number and year.	Subject of Regulation.	Extent of repeal.
	Regulations of the Bengal Code.	
VIII of 1793	A Regulation for re-enacting with modifications and amendments the rules for the Decennial Settlement of the Public Revenue payable from the lands of the zamindárs, independent taluqdárs and other actual proprietors of land in Bengal, Behar and Orissa, passed for those Provinces respectively on the 18th September, 1789, the 25th November, 1789, and the 10th February, 1790, and subsequent dates.	Sections 51, 52, 53, 54, 55, 64 and 65.
XII of 1805	A Regulation for the settlement and collection of the Public Revenue in the zila of Cuttack, including the pergunnahs of Patáspur, Kummadichour and Bagrae, at present included in the zila of Midnapore.	Section 7.
V of 1812	A Regulation for amending some of the rules at present in force for the collection of the Land-revenue.	Sections 2, 3, 4, 26 and 27.
XVIII of 1812	A Regulation for explaining Section 2, Regulation V, 1812, and rescinding Sections 3 and 4, Regulation XLIV, 1793, and Sections 3 and 4, Regulation L, 1795, and enacting other rules in lieu thereof.	The preamble and sections 2 and 3.

SCHEDULE I—*continued.*

Number and year.	Subject of Regulation.	Extent of repeal.
	Regulations of the Bengal Code—continued.	
XI of 1825	A Regulation for declaring the rules to be observed in determining claims to lands gained by alluvion or by dereliction of a river or the sea.	In clause 1 of section 4, from and including the words "nor if annexed to a subordinate tenure" to the end of the clause.
	Acts of the Bengal Council.	
VI of 1862	An Act to amend Act X of 1859 (*to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal*).	The whole Act.
IV of 1867	An Act to explain and amend Act VI of 1862, passed by the Lieutenant-Governor of Bengal in Council, and to give validity to certain judgments.	The whole Act.
VIII of 1869	An Act to amend the Procedure in suits between Landlords and Tenants.	The whole Act.
VIII of 1879	An Act to define and limit the powers of Settlement-officers.	The whole Act.
	Act of the Governor General in Council.	
X of 1859	An Act to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal.	The whole Act.

(*Schedule II.—Forms of Receipt and Account.*)

SCHEDULE II.

FORMS OF RECEIPT AND ACCOUNT.

(*See sections 56 and 57.*)

FORM OF RECEIPT.

PARTICULARS OF THE HOLDING (LANDLORD'S PORTION).

1 Serial number of Receipt

2 Estate ; Village ; Thánd

3. Tenant's name , Son of

4. Particulars of the holding—

Nukdi, Bighás ; rent Rs.

Baouli, Bighás ; Maunds or Rs.

Julkur, Rs.
Bunkur, Rs.
Phulkur, Rs.

Government Cesses { Road Cess, Rs. / Public Works Cess, Rs.

5. Signature of the Landlord or his Authorized Agent

FORM OF RECEIPT.

PARTICULARS OF THE HOLDING (TENANT'S PORTION).

1. Serial number of Receipt

2. Estate ; Village ; Thánd

3. Tenant's name , Son of

4. Particulars of the holding—

Nukdi, Bighás ; rent Rs.

Baouli, Bighás ; Maunds or Rs.

Julkur, Rs.
Bunkur, Rs.
Phulkur, Rs.

Government Cesses { Road Cess, Rs. / Public Works Cess, Rs.

5. Signature of the Landlord or his Authorized Agent

Section 55 of the Bengal Tenancy Act, 1885, provides as follows :—

(1) When a tenant makes a payment on account of rent, he may declare the year or the year and instalment to which he wishes the payment to be credited, and the payment shall be credited accordingly

(2) If he does not make any such declaration, the payment may be credited to the account of such year and instalment as the landlord thinks fit.

(Schedule II.—Forms of Receipt and Account.)

DETAILS OF PAYMENTS (TENANT'S PORTION).

Date of payment, and name of person through whom paid	Nukdi.		Baoull.		Julkur, &c.		Cesses.		Signature of the landlord or his authorised agent
	Current on account of kist	Arrear on account of year, kist	Current on account of crop	Current on account of year, crop	Current on account of kist	Arrear on account of year, kist	Current on account of kist	Arrear on account of year, kist	

DETAILS OF PAYMENTS (LANDLORD'S PORTION).

Date of payment, and name of person through whom paid	Nukdi.		Baoull.		Julkur, &c.		Cesses.	
	Current on account of kist	Arrear on account of year, kist	Current on account of crop	Arrear on account of year, crop	Current on account of kist	Arrear on account of year, kist	Current on account of kist	Arrear on account of year, kist

FORM OF ACCOUNT.

1. Year
2. Tenant's name
3. Particulars of holding—(area, rent, &c.)

	Bighás.	Rate.	Rs.	A.	P.
Nukdi.					
Government Cesses					

	Bighás.	Maunds.	Rs.	A.	P.
Baouli.					
Julkur					
Bunkur					
Phulkur					

	Maunds.	Rs.	A.	P.
4. Demand of the year				
5. Balance of former years (Bakaya)				

	Rs.	A.	P.
6. Total demand (current and arrear)			
7. Paid each on account of { Current demand			
{ Arrear demand			
Maunds			
8. Paid in kind			

	Rs.	A.	P.
9. Balance outstanding at end of year			

10. Signature of the Landlord or his authorized Agent.

FORM OF ACCOUNT.

1. Year
2. Tenant's name
3. Particulars of holding—(area, rent, &c.)

	Bighás.	Rate.	Rs.	A.	P.
Nukdi.					
Government Cesses					

	Bighás.	Maunds.	Rs.	A.	P.
Baouli.					
Julkur					
Bunkur					
Phulkur					

	Maunds.	Rs.	A.	P.
4. Demand of the year				
5. Balance of former years (Bakaya)				

	Rs	A.	P.
6. Total demand (current and arrear)			
7. Paid each on account of { Current demand			
{ Arrear demand			
Maunds			
8. Paid in kind			

	Rs.	A.	P.
9. Balance outstanding at end of year			

10. Signature of the Landlord or his authorized Agent.

SCHEDULE III.

LIMITATION.

(*See section 184.*)

PART I.—*Suits.*

Description of Suit.	Period of Limitation.	Time from which period begins to run.
1. To eject any tenure-holder or raiyat on account of any breach of a condition in respect of which there is a contract expressly providing that ejectment shall be the penalty of such breach.	One year .	The date of the breach.
2. For the recovery of an arrear of rent—		
(*a*) when the arrear fell due before a deposit was made under section 61 on account of the rent of the same holding.	Six months.	The date of the service of notice of the deposit.
(*b*) in other cases	Three years.	The last day of the Bengali year in which the arrear fell due, where that year prevails, and the last day of the month of Jeyt of the Amli or Fasli year in which the arrear fell due, where either of those years prevails.
3. To recover possession of land claimed by the plaintiff as an occupancy-raiyat.	Two years .	The date of dispossession.

PART II.—*Appeals.*

Description of Appeal.	Period of Limitation.	Time from which period begins to run.
4. From any decree or order under this Act, to the Court of a District Judge or Special Judge.	Thirty days.	The date of the decree or order appealed against.
5. From any order of a Collector under this Act, to the Commissioner.	Thirty days.	The date of the order appealed against.

PART III.—*Applications.*

Description of application	Period of Limitation.	Time from which period begins to run.
6. For the execution of a decree or order made under this Act, or any Act repealed by this Act, and not being a decree for a sum of money exceeding Rs. 500, exclusive of any interest which may have accrued after decree upon the sum decreed, but inclusive of the costs of executing such decree; except where the judgment-debtor has by fraud or force prevented the execution of the decree, in which case the period of limitation shall be governed by the provisions of the Indian Limitation Act, 1877.	Three years.	(1) The date of the decree or order; or (2) where there has been an appeal, the date of the final decree or order of the Appellate Court; or (3) where there has been a review of judgment, the date of the decision passed on the review.

ACT No. IX OF 1885.

Received the Governor General's assent on the 29th May, 1885.

An Act to repeal part of section 6 of the Indian Tariff Act, 1882, and to amend the Excise Act, 1881, the Bengal Excise Act, 1878, and the Sea Customs Act, 1878.

XI of 1882. XXII of 1881. VII (B.C.) of 1878. VIII of 1878.

WHEREAS it is expedient to repeal part of section 6 of the Indian Tariff Act, 1882, and to amend section 7 of the Excise Act, 1881, section 18 of the Bengal Excise Act, 1878, and sections 145, 149 and 207 of the Sea Customs Act, 1878, in manner hereinafter appearing; It is hereby enacted as follows:—

1. [*Repeal of part of section 6 of Act XI of 1882.*] *Omitted as referring to a General Act.*

2. [*Amendment of section 7 of Act XXII of 1881.*] *Omitted as not applying to Bengal or Assam.*

VII (B.C.) of 1878.

3. In section 18 of the Bengal Excise Act, 1878, for the words "at the rate leviable under any Tariff Act for the time being in force" the words "at such rate as the Local Government may from time to time fix in respect of such spirituous liquor" shall be substituted; but nothing in this section shall affect any Act passed after this Act comes into force by the Lieutenant-Governor of Bengal in Council.

Amendment of section 18 of Bengal Act VII of 1878.

XI of 1882.

4. The duty now fixed by the Local Government under section 6 of the Indian Tariff Act, 1882, as leviable on spirit manufactured in all or any of the distilleries situate in the territories under its administration, or in any part

Saving of duties already fixed under section

* Ss. 1, 3 and 4 of this Act have been declared in force in the Sonthal Pergunnahs by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2—*see infra*, p. 606.

6 of Act XI of 1882.

of such territories, shall, in places in which the Excise Act, 1881, or the Bengal Excise Act, 1878, is in force, be deemed to be the duty fixed by the Local Government under sections 7 and 18 of those Acts, as amended by this Act, respectively. XXII of 1881 VII (B.C) of 1878

5, 6. [*Amendment of sections 145, 149 and 207 of Act VIII of 1878.*] *Omitted as referring to a General Act.*

ACT No. VIII OF 1886.

Received the Governor General's assent on the 8th March, 1886.

An Act to amend sections 12 and 13 of the Bengal Tenancy Act, 1885.

WHEREAS it is expedient to amend sections 12 and 13 of the Bengal Tenancy Act, 1885, in manner hereinafter appearing; It is hereby enacted as follows:— VIII of 1885.

1. In section 12, sub-section (*2*), before the word "mortgage" the word "usufructuary" shall be inserted.

2. (*1*) In section 13, sub-section (*1*), before the words "the Court" the words "or when a mortgage of a permanent tenure, other than an usufructuary mortgage thereof, is foreclosed," shall be inserted.

(*2*) In the same sub-section, before the word "require" the words "or making a decree or order absolute for the foreclosure" shall be inserted.

(*3*) In the same sub-section, before the words "to pay into Court" the words "or mortgagee" shall be inserted.

(*4*) In the same sub-section, before the words "on the landlord" the words "or final foreclosure" shall be inserted.

(*5*) In section 13, sub-section (*2*), before the words "the Court" the words "or the decree or order absolute for the foreclosure has been made," shall be inserted.

(*6*) In the same sub-section, before the words "in the prescribed form," the words "or final foreclosure" shall be inserted.

ACT No. IV OF 1887.

Received the assent of the Governor General on the 14th January, 1887.

An Act to alter the constitution of the body corporate known as the Trustees of the Indian Museum, and to confer certain additional powers on that body.

WHEREAS it is expedient to alter the constitution of the body corporate

known as the Trustees of the Indian Museum, and to amend the law relating to the powers of the said Trustees; It is hereby enacted as follows:—

Title and commencement.

1. (*1*) This Act may be called the Indian Museum Act, 1887; and

(*2*) It shall come into force at once.

XXII of 1876.

Repeal of certain sections of Act XXII of 1876.

2. ~~Sections 3, 4 and 5 of the Indian Museum Act, 1876, are repealed.~~

Substitution of new sections for sections repealed.

3. For those sections the following shall be substituted, namely:—

(*See supra, pp. 433 and 434.*)

Continuance of existing Trustees.

4. (*1*) For the purposes of the Indian Museum Act, 1876, as amended by this Act—

(*a*) the persons nominated by the Governor General in Council under the Indian Museum Act, 1876, and now holding office as Trustees, shall be deemed to be persons appointed by the Governor General in Council under section 3 of that Act as amended by this Act;

(*b*) the President of the Asiatic Society of Bengal, and the other members of the Council of that Society nominated by that Council under the Indian Museum Act, 1876, and now holding office as Trustees, shall be deemed to be persons appointed by the Council of the Asiatic Society of Bengal under the said section; and

(*c*) the persons elected and appointed by the Trustees under the said Act, and now holding office as Trustees, shall be deemed to have been appointed by the Trustees under the said section.

(*2*) The Secretary to the Government of India and the Superintendent of the Geological Survey of India shall cease to be *ex officio* members of the said body corporate.

Power to Trustees to keep collections not belonging to them.

5. Notwithstanding anything in the Indian Museum Act, 1876,[a]—

(*a*) the Trustees of the Indian Museum, if they think fit, may, with the previous sanction of the Governor General in Council, and subject in each case to such conditions as he may approve and to such rules as he may prescribe, assume the custody and administration of collections which are not the property of the Trustees for the purposes of their trusts in that Act mentioned, and keep and preserve the collections either in the Indian Museum or elsewhere; and

(*b*) in the event of the trust constituted by that Act being determined, collections of which the Trustees have assumed the custody and

[a] See s 6 of Act XXII of 1876, *supra*, p. 434.

administration under the foregoing part of this section shall not by reason of their then being in the Indian Museum become the property of the Government of India.

And whereas it is provided in the Indian Museum Act, 1876, that the Trustees of the Indian Museum shall have the exclusive possession, occupation and control, for the purposes of their trusts in that Act mentioned, of the whole of the building called the Indian Museum, except certain portions thereof set apart for other purposes[a]; and whereas the Trustees are by virtue of that provision in possession of the property described in the schedule to this Act; It is hereby enacted as follows:— XXII of 1876.

Power to Trustees to part with certain property in their possession.

6. The Trustees may, with the previous sanction of the Governor General in Council, and subject to such conditions as he may approve, deliver possession of the whole or any part of that property to such person as the Lieutenant-Governor of Bengal may appoint in that behalf.

THE SCHEDULE.

Land bounded on the north by a straight line drawn between the east and the west boundaries parallel to the main south wall of the Museum at a distance of twenty-five feet from the said wall; on the west and the south-west by the Chowringhee Road and the walls of the premises known as No. 29, Chowringhee Road; on the south by Kyd Street; and on the east by the walls of the premises known as No. 15, Kyd Street, and No. 4, Chowringhee Lane; measuring in all four acres three roods and sixteen perches; together with all buildings, roads and tanks existing or erected thereon, and all easements appertaining thereto.

THE BENGAL, NORTH-WESTERN PROVINCES AND ASSAM CIVIL COURTS ACT, 1887.

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ACT No. XII OF 1887.

Received the assent of the Governor General on the 11th March, 1887.

An Act to consolidate and amend the law relating to Civil Courts in Bengal, the North-Western Provinces and Assam.

WHEREAS it is expedient to consolidate and amend the law relating to Civil Courts in Bengal, the North-Western Provinces and Assam; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title, extent and commencement.

1. (1) This Act may be called the Bengal, North-Western Provinces and Assam Civil Courts Act, 1887.

(2) It extends to the territories for the time being respectively administered by the Lieutenant-Governor of Bengal, the Lieutenant-Governor of the North-Western Provinces and the Chief Commissioner of Assam, except such portions of those territories as for the time being are not subject to the ordinary civil jurisdiction of the High Courts, ~~and except the Jhánsi Division~~; and

Rep. XX of 1890. S. 9 (1)

(3) It shall come into force on the first day of July, 1887.

For special provisions as to Civil Courts in the Sonthal Parganas. See Regn V of 1893. Ch. III

VI of 1871. 2. (*1*) ~~The Bengal Civil Courts Act, 1871, and Act No. XIX of 1877 (to enable certain District Judges to suspend and remove certain ministerial officers, and for other purposes), section 1, are hereby repealed.~~ Repeal.

(*2*) ~~But~~ all Courts constituted, appointments, nominations, rules and orders made, jurisdiction and powers conferred and lists published under the Bengal Civil Courts Act, 1871, or any enactment thereby repealed, or purporting expressly or impliedly to have been so constituted, made, conferred and published shall be deemed to have been respectively constituted, made, conferred and published under this Act; and

(*3*) Any enactment or document referring to the Bengal Civil Courts Act, 1871, or to any enactment thereby repealed, shall be construed to refer to this Act or to the corresponding portion thereof.

CHAPTER II.

Constitution of Civil Courts.

3. There shall be the following classes of Civil Courts under this Act, namely:— Classes of Courts.

(*1*) the Court of the District Judge;

(*2*) the Court of the Additional Judge;

(*3*) the Court of the Subordinate Judge; and

(*4*) the Court of the Munsif.

4. The Local Government may, with the previous sanction of the Governor General in Council, increase or reduce the number of District Judges and Subordinate Judges now fixed. Number of District Judges and Subordinate Judges.

5. The Local Government may, subject to the control of the Governor General in Council, alter the number of Munsifs now fixed: Number of Munsifs.

Provided that, except in the case of Munsifs whose monthly salary does not exceed two hundred and fifty rupees, an increase of the number of Munsifs now fixed shall not be made by the Local Government without the previous sanction of the Governor General in Council.

6. (*1*) Whenever the office of District Judge or Subordinate Judge is vacant by reason of the death, resignation or removal of the Judge or other cause, or whenever the Governor General in Council has sanctioned an increase of the number of District Judges or Subordinate Judges, the Local Government may fill up the vacancy or appoint the additional District Judges or Subordinate Judges, as the case may be. Vacancies among District or Subordinate Judges.

(*2*) Nothing in this section shall be construed to prevent a Local Govern-

ment from appointing a District Judge or Subordinate Judge to discharge for such period as it thinks fit, in addition to the functions devolving on him as such District Judge or Subordinate Judge, all or any of the functions of another District Judge or Subordinate Judge, as the case may be.

Vacancies among Munsifs.

7. (*1*) Whenever the office of Munsif is vacant, or whenever the Local Government increases the number of Munsifs, the High Court shall nominate such person as it thinks fit to be a Munsif, and the Local Government shall appoint him accordingly.

(*2*) The Local Government may, after consultation with the High Court and with the previous sanction of the Governor General in Council, make rules as to the qualifications of persons to be appointed to the office of Munsif.

(*3*) When rules have been made under sub-section (*2*), a person shall not be nominated under sub-section (*1*) unless he possesses the qualifications required by the rules.

Additional Judges.

8. (*1*) When the business pending before any District Judge requires the aid of Additional Judges for its speedy disposal, the Local Government may, upon the recommendation of the High Court and with the previous sanction of the Governor General in Council, appoint such Additional Judges as may be requisite.

(*2*) Additional Judges so appointed shall discharge any of the functions of a District Judge which the District Judge may assign to them, and, in the discharge of those functions, they shall exercise the same powers as the District Judge.

Administrative control of Courts.

9. Subject to the superintendence of the High Court, the District Judge shall have administrative control over all the Civil Courts under this Act within the local limits of his jurisdiction.

Temporary charge of District Court.

10. (*1*) In the event of the death, resignation or removal of the District Judge, or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence from the place at which his Court is held, the Additional Judge, or, if an Additional Judge is not present at that place, the senior Subordinate Judge present thereat, shall, without relinquishing his ordinary duties, assume charge of the office of the District Judge, and shall continue in charge thereof until the office is resumed by the District Judge or assumed by an officer appointed thereto.

(*2*) While in charge of the office of the District Judge, the Additional Judge or Subordinate Judge, as the case may be, may, subject to any rules which the High Court may make in this behalf, exercise any of the powers of the District Judge.

Transfer of proceedings on vacation of office of Subordinate Judge.

11. (*1*) In the event of the death, resignation or removal of a Subordinate Judge, or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence from the place at which his Court is held, the District Judge may transfer all or any of the proceedings pending in the Court of the Subordinate Judge either to his own Court or to any Court under his administrative control competent to dispose of them.

(*2*) Proceedings transferred under sub-section (*1*) shall be disposed of as if they had been instituted in the Court to which they are so transferred:

(*3*) Provided that the District Judge may re-transfer to the Court of the Subordinate Judge or his successor any proceedings transferred under sub-section (*1*) to his own or any other Court.

(*4*) For the purposes of proceedings which are not pending in the Court of the Subordinate Judge on the occurrence of an event referred to in sub-section (*1*), and with respect to which that Court has exclusive jurisdiction, the District Judge may exercise all or any of the jurisdiction of that Court.

Temporary charge of office of Munsif.

12. (*1*) A District Judge, on the occurrence within the local limits of his jurisdiction of any vacancy in the office of Munsif, may appoint such person as he thinks fit to act in the office until that person is relieved by a Munsif appointed under section 7 or his appointment is cancelled by the District Judge.

(*2*) The District Judge shall forthwith report to the High Court the occurrence of every such vacancy and the making and cancelling of every such appointment.

Power to fix local limits of jurisdiction of Courts.

13. (*1*) The Local Government may, by notification in the official Gazette, fix and alter the local limits of the jurisdiction of any Civil Court under this Act.

(*2*) If the same local jurisdiction is assigned to two or more Subordinate Judges or to two or more Munsifs, the District Judge may assign to each of them such civil business cognizable by the Subordinate Judge or Munsif, as the case may be, as, subject to any general or special orders of the High Court, he thinks fit.

(*3*) When civil business arising in any local area is assigned by the District Judge under sub-section (*2*) to one of two or more Subordinate Judges or to one of two or more Munsifs, a decree or order passed by the Subordinate Judge or Munsif shall not be invalid by reason only of the case in which it was made having arisen wholly or in part in a place beyond the local area if that place is within the local limits fixed by the Local Government under sub-section (*1*).

(*4*) A Judge of a Court of Small Causes appointed to be also a Subordinate

Judge or Munsif is a Subordinate Judge or Munsif, as the case may be, within the meaning of this section.

(*5*) The present local limits of the jurisdiction of every Civil Court under this Act shall be deemed to have been fixed under this section.

Place of sitting of Courts.

14. (*1*) The Local Government may, by notification in the official Gazette, fix and alter the place or places at which any Civil Court under this Act is to be held.

(*2*) All places at which any such Courts are now held shall be deemed to have been fixed under this section.

Vacations of Courts.

15. (*1*) Subject to such orders as may be made by the Governor General in Council, the High Court shall prepare a list of days to be observed in each year as closed holidays in the Civil Courts.

(*2*) The list shall be published in the local official Gazette.

(*3*) A judicial act done by a Civil Court on a day specified in the list shall not be invalid by reason only of its having been done on that day.

Seals of Courts.

16. Every Civil Court under this Act shall use a seal of such form and dimensions as are prescribed by the Local Government.

Continuance of proceedings of Courts ceasing to have jurisdiction.

17. (*1*) Where any Civil Court under this Act has from any cause ceased to have jurisdiction with respect to any case, any proceeding in relation to that case which, if that Court had not ceased to have jurisdiction, might have been had therein may be had in the Court to which the business of the former Court has been transferred.

(*2*) Nothing in this section applies to cases for which provision is made in section 623 or section 649 of the Code of Civil Procedure or in any other enactment for the time being in force. XIV of 1882

CHAPTER III.

Ordinary Jurisdiction.

Extent of original jurisdiction of District or Subordinate Judge.

18. Save as otherwise provided by any enactment for the time being in force, the jurisdiction of a District Judge or Subordinate Judge extends, subject to the provisions of section 15 of the Code of Civil Procedure, to all original suits for the time being cognizable by Civil Courts. XIV of 1882

Extent of jurisdiction of Munsif.

19. (*1*) Save as aforesaid, and subject to the provisions of sub-section (*2*), the jurisdiction of a Munsif extends to all like suits of which the value does not exceed one thousand rupees.

(*2*) The Local Government may, on the recommendation of the High Court, direct by notification in the official Gazette, with respect to any Munsif named

therein, that his jurisdiction shall extend to all like suits of such value not exceeding two thousand rupees as may be specified in the notification.

Appeals from District and Additional Judges.

20. (*1*) Save as otherwise provided by any enactment for the time being in force, an appeal from a decree or order of a District Judge or Additional Judge shall lie to the High Court.

(*2*) An appeal shall not lie to the High Court from a decree or order of an Additional Judge in any case in which, if the decree or order had been made by the District Judge, an appeal would not lie to that Court.

Appeals from Subordinate Judges and Munsifs.

21. (*1*) Save as aforesaid, an appeal from a decree or order of a Subordinate Judge shall lie—

(*a*) to the District Judge where the value of the original suit in which or in any proceeding arising out of which the decree or order was made did not exceed five thousand rupees, and

(*b*) to the High Court in any other case.

(*2*) Save as aforesaid, an appeal from a decree or order of a Munsif shall lie to the District Judge.

(*3*) Where the function of receiving any appeals which lie to the District Judge under sub-section (*1*) or sub-section (*2*) has been assigned to an Additional Judge, the appeals may be preferred to the Additional Judge.

(*4*) The High Court may, with the previous sanction of the Local Government, direct, by notification in the official Gazette, that appeals lying to the District Judge under sub-section (*2*) from all or any of the decrees or orders of any Munsif shall be preferred to the Court of such Subordinate Judge as may be mentioned in the notification, and the appeals shall thereupon be preferred accordingly.

CHAPTER IV.

SPECIAL JURISDICTION.

Power to transfer to Subordinate Judges appeals from Munsifs.

22. (*1*) A District Judge may transfer to any Subordinate Judge under his administrative control any appeals pending before him from the decrees or orders of Munsifs.

(*2*) The District Judge may withdraw any appeal so transferred, and either hear and dispose of it himself or transfer it to a Court under his administrative control competent to dispose of it.

(*3*) Appeals transferred under this section shall be disposed of subject to the rules applicable to like appeals when disposed of by the District Judge.

Exercise by

23. (*1*) The High Court may, by general or special order, authorize any

Subordinate Judge or Munsif of jurisdiction of District Court in certain proceedings.

Subordinate Judge or Munsif to take cognizance of, or any District Judge to transfer to a Subordinate Judge or Munsif under his administrative control, any of the proceedings next hereinafter mentioned or any class of those proceedings specified in the order.

(*2*) The proceedings referred to in sub-section (*1*) are the following, namely:—

(*a*) proceedings under Bengal Regulation V, 1799 (*to limit the Interference of the Zillah and City Courts of Dewany Adawlut in the Execution of Wills and Administration to the Estates of persons dying intestate*);

(*b*) proceedings under Act XL of 1858 (*for making better provision for the care of the persons and property of Minors in the Presidency of Fort William in Bengal*), or Act IX of 1861 (*to amend the law relating to Minors*);

(*c*) applications for certificates under Act No. XXVII of 1860 (*for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons*);

(*d*) proceedings under the Indian Succession Act, 1865, and the Probate and Administration Act, 1881, which cannot be disposed of by District Delegates; and X of 1865. V of 1881.

(*e*) references by Collectors under section 322C of the Code of Civil Procedure. XIV of 188

(*3*) The District Judge may withdraw any such proceedings taken cognizance of by, or transferred to, a Subordinate Judge or Munsif, and may either himself dispose of them or transfer them to a Court under his administrative control competent to dispose of them.

Disposal of proceedings referred to in last foregoing section.

24. (*1*) Proceedings taken cognizance of by, or transferred to, a Subordinate Judge or Munsif, as the case may be, under the last foregoing section shall be disposed of by him subject to the rules applicable to like proceedings when disposed of by the District Judge:

Provided that an appeal from an order of a Munsif in any such proceeding shall lie to the District Judge.

(*2*) An appeal from the order of the District Judge on the appeal from the order of the Munsif under this section shall lie to the High Court if a further appeal from the order of the District Judge is allowed by the law for the time being in force.

Power to invest Subordinate

25. The Local Government may, by notification in the official Gazette, confer, within such local limits as it thinks fit, upon any Subordinate Judge

or Munsif the jurisdiction of a Judge of a Court of Small Causes under the Provincial Small Cause Courts Act, 1887, for the trial of suits cognizable by such Courts, up to such value not exceeding five hundred rupees in the case of a Subordinate Judge or one hundred rupees in the case of a Munsif as it thinks fit, and may withdraw any jurisdiction so conferred.

IX of 1887

Judges and Munsifs with Small Cause Court jurisdiction.

CHAPTER V.

MISFEASANCE.

Suspension or removal of Judges by Local Government.

26. Any District Judge, Additional Judge, Subordinate Judge or Munsif may, for any misconduct, be suspended or removed by the Local Government.

Suspension of Subordinate Judge by High Court.

27. (*1*) The High Court may, whenever it sees urgent necessity for so doing, suspend a Subordinate Judge.

(*2*) Whenever the High Court suspends a Subordinate Judge under sub-section (*1*), it shall forthwith report to the Local Government the circumstances of the suspension, and the Local Government shall make such order with respect thereto as it thinks fit.

Suspension or removal of Munsif by High Court.

28. (*1*) The High Court may appoint a commission for inquiring into alleged misconduct of a Munsif.

(*2*) On receiving the report of the result of the inquiry, the High Court may, if it thinks fit, remove or suspend the Munsif.

(*3*) The provisions of Act No. XXXVII of 1850 (*for regulating Inquiries into the behaviour of Public Servants*) shall apply to inquiries under this section, the powers conferred by that Act on the Government being exercised by the High Court.

(*4*) The High Court may, before appointing the commission, suspend the Munsif pending the result of the inquiry.

(*5*) The High Court may, without appointing a commission, remove or suspend a Munsif.

Suspension of Munsif by District Judge.

29 (*1*) A District Judge may, whenever he sees urgent necessity for so doing, suspend a Munsif under his administrative control.

(*2*) Whenever a District Judge suspends a Munsif under sub-section (*1*), he shall forthwith report to the High Court the circumstances of the suspension, and the High Court shall make such order with respect thereto as it thinks fit.

CHAPTER VI.

MINISTERIAL OFFICERS.

Appointment and removal of ministerial officers of District Courts.

30. District Judges shall appoint the ministerial officers of their Courts and, subject only to the control of the Local Government, may remove or suspend those officers or fine them in an amount not exceeding one month's salary.

Appointment and removal of ministerial officers of other Courts.

31. (*1*) The ministerial officers of the Civil Courts subject to the administrative control of the District Judge shall be appointed—

(*a*) in the case of an appointment not likely to last, and not lasting, longer than two months, by those Courts, and

(*b*) in any other case, by the District Judge.

(*2*) An Additional Judge, Subordinate Judge or Munsif may, by order, remove or suspend, or fine in an amount not exceeding one month's salary, any ministerial officer of his Court who is guilty of misconduct or neglect in the performance of the duties of his office.

Appointment and removal of ministerial officers on joint establishments.

32. The provisions of the two last foregoing sections shall be subject to the following modifications in their application to ministerial officers employed by more Civil Courts than one, namely :—

(*a*) appointments not likely to last, and not lasting, longer than two months shall be made by the Court of the highest class among those Courts, or, where there is no difference in class among those Courts, by the senior among the presiding Judges thereof; and

(*b*) such ministerial officers may not be removed or suspended by any Court except the Court which under clause (*a*) of this section is for the time being charged with the duty of making appointments to fill temporary vacancies.

General powers of District Judge.

33. The District Judge, subject only to the control of the Local Government, may, by order, suspend or remove any ministerial officer to whom section 31 or section 32 applies, and may, on appeal or otherwise, reverse or modify any order made under either of those sections by any Court under his administrative control.

Transfer of ministerial officers.

34. (*1*) The Local Government may, at the instance of the High Court or of a District Judge, transfer a ministerial officer from any Civil Court under this Act to any other such Court.

(*2*) The District Judge may transfer a ministerial officer from any such Court within the local limits of his jurisdiction to any other such Court within those limits.

35. Any fine imposed under this Chapter may be recovered by deduction from the salary of the person fined. Recovery of fines.

CHAPTER VII.

SUPPLEMENTAL PROVISIONS.

36. (1) The Local Government may invest with the powers of any Civil Court under this Act, by name or in virtue of office,— Power to confer powers of Civil Courts on officers.

(a) any officer in the Chota Nagpore, Jalpáiguri or Darjeeling district, or in any part of the territories administered by the Chief Commissioner of Assam except the district of Sylhet, or,

(b) after consultation with the High Court, any officer serving in any other part of the territories to which this Act extends and belonging to a class defined in this behalf by the Local Government with the previous sanction of the Governor General in Council.

(2) Nothing in sections 4 to 8 (both inclusive), or sections 10 to 12 (both inclusive) or sections 27 to 35 (both inclusive) applies to any officer so invested, but all the other provisions of this Act shall, so far as those provisions can be made applicable, apply to him as if he were a Judge of the Court with the powers of which he is invested.

(3) Where, in the territories mentioned in clause (a) of sub-section (1), the same local jurisdiction is assigned to two or more officers invested with the powers of a Munsif, the officer invested with the powers of a District Judge may, with the previous sanction of the Local Government, delegate his functions under sub-section (2) of section 13 to an officer invested with the powers of a Subordinate Judge or to one of the officers invested with the powers of a Munsif.

(4) Where the place at which the Court of an officer invested with powers under sub-section (1) is to be held has not been fixed under section 14, the Court may be held at any place within the local limits of its jurisdiction.

37. (1) Where in any suit or other proceeding it is necessary for a Civil Court to decide any question regarding succession, inheritance, marriage or caste, or any religious usage or institution, the Muhammadan law in cases where the parties are Muhammadans, and the Hindu law in cases where the parties are Hindus, shall form the rule of decision, except in so far as such law has, by legislative enactment, been altered or abolished. Certain decisions to be according to Native law.

(2) In cases not provided for by sub-section (1) or by any other law for

the time being in force, the Court shall act according to justice, equity and good conscience.

Judges not to try suits in which they are interested.

38. (*1*) The presiding officer of a Civil Court shall not try any suit or other proceeding to which he is a party or in which he is personally interested.

(*2*) The presiding officer of an appellate Civil Court under this Act shall not try an appeal against a decree or order passed by himself in another capacity.

(*3*) When any such suit, proceeding or appeal as is referred to in sub-section (*1*) or sub-section (*2*) comes before any such officer, the officer shall forthwith transmit the record of the case to the Court to which he is immediately subordinate, with a report of the circumstances attending the reference.

(*4*) The superior Court shall thereupon dispose of the case under section 25 of the Code of Civil Procedure. XIV of 1882

(*5*) Nothing in this section shall be deemed to affect the extraordinary original civil jurisdiction of the High Court.

Subordination of Courts to District Court

39. For the purposes of the last foregoing section the presiding officer of a Court subject to the administrative control of the District Judge shall be deemed to be immediately subordinate to the Court of the District Judge, and, for the purposes of the Code of Civil Procedure, the Court of such an officer shall be deemed to be of a grade inferior to that of the Court of the District Judge.

Application of Act to Provincial Courts of Small Causes.

40. (*1*) This section and sections 15, 32, 37, 38 and 39 apply to Courts of Small Causes constituted under the Provincial Small Cause Courts Act, 1887. IX of 1887.

(*2*) Save as provided by that Act, the other sections of this Act do not apply to those Courts.

ACT No. XII OF 1888.

Received the Governor General's assent on the 12th October, 1888.

An Act to supplement certain provisions of the City of Bombay Municipal Act, 1888, and of the Calcutta Municipal Consolidation Act, 1889.

WHEREAS it is expedient to supplement by legislation in the Council of the Governor General for making Laws and Regulations certain provisions of

the City of Bombay Municipal Act, 1888, and of the Calcutta Municipal Consolidation Act, 1889; It is hereby enacted as follows:—

II (B C) of 1888

1. The City of Bombay Municipal Act, 1888, and the Calcutta Municipal Consolidation Act, 1889, shall, so far as regards—

Confirmation of the City of Bombay Municipal Act, 1888, and the Calcutta Municipal Consolidation Act, 1889, so far as regards Benches, Magistrates and Courts of Small Causes

(*a*) the jurisdiction thereby conferred upon Appellate Benches of Municipal Authorities and upon Presidency and other Magistrates and Courts of Small Causes or any Judge of such a Court, and

(*b*) the decisions, orders and other proceedings of those Benches, Magistrates and Courts or of any such Judge,

be as valid as if they had been passed by the Governor General of India in Council at a meeting for the purpose of making Laws and Regulations.

2-5. [*Omitted as applying to Bombay only*]

PART III:

REGULATIONS MADE UNDER 33 VICT., CAP. 3[a] IN FORCE IN BENGAL.

REGULATION No. III OF 1872.[b]

A Regulation for the peace and good government of the territory known as the Sonthal Pergunnahs.

[*Published in the Gazette of India of 4th May, 1872, p. 468, and in the Calcutta Gazette of 8th May, 1872, p. 2056.*]

Short title.

1. This Regulation may be called the Sonthal Pergunnahs Settlement Regulation.

Local extent.

2. It extends to the whole of the Sonthal Pergunnahs as described in the schedule attached to Act X of 1857 and in the notification of the Governor General in Council, No. 478, dated 12th March, 1872. It shall come into force on the first day of May, 1872. It shall be read with Act XXXVII of 1855 and Act X of 1857.

Enactments in force in the Sonthal Pergunnahs.

3. [c]Subject to the provisions of this Regulation, and of any other Regulation for the time being in force under the thirty-third of Victoria, chapter I, section 1,—

(*a*) so much of each of the Regulations and Acts, or portions of Regulations and Acts, specified in the schedule to this Regulation, as was on the day previous to the passing of the Bengal Tenancy Act, 1885, in force in any part of the Lower Provinces of Bengal which is not

VIII of 1885.

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[a] The provisions of s. 1 of the Statute 33 Vict., c. 3, were, by Resolution of the Secretary of State for India in Council, declared applicable—

(1) to the Sonthal Pergunnahs from the 15th March, 1872—see Gazette of India, 16th March, 1872, Part I, p. 240; and

(2) to the Chittagong Hill Tracts from the 1st January, 1873—see Gazette of India, 14th December, 1872, Part I, p. 457.

[b] The Sonthal Pergunnahs Rent Regulation, 1886, and the Sonthal Pergunnahs Laws Regulation, 1886, are to be read with and taken as supplementary to and part of this Regulation—see Regs II and III of 1886, s. 1 (*3*), *infra*, pp. 615 and 622.

The old Code of Civil Procedure, Act VIII of 1859, and its amending Act, XXIII of 1861, were extended to the Sonthal Pergunnahs subject to certain modifications—see Notification, dated 19th August, 1867, Calcutta Gazette, 28th idem, p. 1368; the reference to the old Code in this notification should now be read as referring to the new Code, XIV of 1882—see s. 3, *ibid.* The Code applies, however, only to suits exceeding Rs. 1,000 in value—see Act XXXVII of 1855, s. 2, *supra*, p. 300, and the second paragraph of s. 3 of this Regulation; also I. L. R. 10 Cal. 761.

[c] The first sentence of s. 3 has been substituted by Reg. III of 1886, s. 2.

included in a scheduled district as defined in Act XIV of 1874, and,

(*b*) in the case of any such Regulation or Act, or portion thereof, which was not on that day in force in any such part, then the portion thereof specified in the schedule, or, where no portion is there specified, then, in the case of a Regulation or Act passed before the first of May, 1872, so much thereof as was unrepealed on that date, and, in the case of an Act passed after the passing of the Bengal Tenancy Act, 1885, the whole of the Act, VIII of 1885

shall be deemed to be in force in the Santhal Pergunnahs.

No other Regulations or Acts [a]heretofore or hereafter passed[a] shall be deemed to be in force in the Santhal Pergunnahs except so far as regards the trial and determination of the civil suits mentioned in section 2, Act XXXVII of 1855, in which the matter in dispute exceeds the value of rupees one thousand, when such suits are tried in the Courts established under Act XII of 1887.[b]

[a]The Lieutenant-Governor may, from time to time, with the previous sanction of the Governor General in Council, by a notification in the official Gazette, declare that any Regulation or Act, or part of a Regulation or Act, mentioned in the schedule shall no longer be in force in the Santhal Pergunnahs.[a]

In addition to the Regulations and Acts mentioned in the schedule, the Lieutenant-Governor of Bengal may, by a notification in the Calcutta Gazette, direct that any other Bengal Regulation, or any other Act [a]heretofore or hereafter[a] passed by the Governor General of India in Council, or by the Lieutenant-Governor of Bengal in Council, or any part of any such Regulation or Act, shall have force and effect in the Santhal Pergunnahs, and may, by a similar notification, declare that any Regulation or Act, or part of a Regulation or Act, which may have been, or may be, introduced by him, shall no longer have force and effect in the Santhal Pergunnahs.

Power to invest officers with Civil Court powers.

4. The Lieutenant-Governor of Bengal may, by notification in the Calcutta Gazette, invest any competent officer in the Santhal Pergunnahs with the powers of any Civil Court established under Act XII of 1887,[b] and may exclude the whole or any part of the said pergunnahs from the jurisdiction of any of the Courts established under the said Act now having jurisdiction therein.

Nothing in sections 3 to 9 (inclusive), 32, 33 and 34 of the said Act applies to any officer invested with the powers of a Court under this section; but all the other provisions of the said Act apply, *mutatis mutandis*, to officers so invested.

[a]-[a] These words in s 3 have been inserted by Reg III of 1886, ss 3, 4 and 5.

[b] Substituted for Act VI of 1871 by Act XII of 1887, s 2 (*b*), *supra*, p. 530.

Jurisdiction as to certain suits until settlement completed.

5. Till such time as a settlement of the whole or any part of the Sonthal Pergunnahs shall be made under the rules hereinafter provided, and the said settlement shall be declared by a notification in the Calcutta Gazette to have been completed and concluded, no suit shall lie in any Court established under the said Act XII of 1887[a] in regard to any land or any interest in, or arising out of, any land, or for the rent or profits of any land, or regarding any village-headship or other office connected with the land, except as hereinafter provided; but such suits shall be heard and determined by the officers appointed by the Lieutenant-Governor of Bengal under section 2 of the said Act XXXVII of 1855, or by the Settlement-officers hereinafter mentioned, according as the said Lieutenant-Governor shall from time to time direct:

Provided that, if it shall appear to any officer empowered to try any such suit to be just and expedient that such suit, or that any issue arising in such suit, should be tried by the Court established under the said Act XII of 1887[a] which would have had jurisdiction if this provision had not been made, he may (subject to the direction and control of the officers to whom he is subordinate), either on the prayer of the parties or on his own motion, make a certificate to that effect and transfer the record, if any, to the said Court.

On the receipt of such certificate the said Court may proceed to try and determine such suit or issue under the same rules and in the same manner as if the suit had been originally instituted therein.

On the decision of such suit or issue the Court shall certify its decision to the officer by whom the certificate was made, who shall thereupon apply or execute such decision.

Usury.

6. All Courts having jurisdiction in the Sonthal Pergunnahs shall observe the following rules relating to usury, namely:—

(*a*) interest on any debt or liability for a period exceeding one year shall not be decreed at a higher rate than two per cent. per mensem, notwithstanding any agreement to the contrary, and no compound interest arising from any intermediate adjustment of account shall be decreed:

(*b*) the total interest decreed on any loan or debt shall never exceed one-fourth of the principal sum, if the period be not more than one year, and shall not in any other case exceed the principal of the original debt or loan.

Exemption of agreements from stamp-duty.

7. Agreements between cultivators or headmen of villages and the persons to whom rent is payable by them, respecting such rent or regulating their respective rights in the land for which such rent is payable, shall not be liable to any stamp.

[a] Substituted for Act VI of 1871—see Act XII of 1887, s. 2 (3), *supra*, p. 585.

Court-fees Act not applicable to certain suits.

8. The Court-fees Act, 1870, shall not be applicable to any suit or other proceeding before any officer making a settlement, or before any officer appointed under Act XXXVII of 1855, and regarding any matter which he is authorized to adjudicate in anticipation of settlement under section 26 of this Regulation. VII of 1870.

Power to order settlement.

9. The Lieutenant-Governor may, [a]from time to time,[a] by notification in the Calcutta Gazette, declare that a settlement shall be made of the whole or any part of the Sonthal Pergunnahs for the purpose of ascertaining and recording the various interests and rights in the lands.

Power to appoint Settlement-officers.

10. The Lieutenant-Governor may appoint the officers by whom the settlement is to be made, and may invest any officer or officers with the control over them by way of appeal and revision, and may make rules for the procedure of such officers in the investigation into rights in the land and the hearing of suits, and generally for the guidance of such officers.

The Lieutenant-Governor may reserve to himself an ultimate power of revision in respect of any cases decided in any Settlement Court.

Bar to jurisdiction of Civil Courts.

11. Except as provided in section 25, no suit shall lie in any Civil Court regarding any matter decided by any Settlement Court under these rules; but the decisions and orders of the Settlement Courts made under these rules, regarding the interests and rights above-mentioned, shall have the force of a decree of Court.

Inquiry into landed rights.

12. The Settlement-officers shall have power to inquire into, to decide and to record the rights of the zamindárs and other proprietors, the rights of the tenants or raiyats, the rights of the mánjhis or other headmen as against both the proprietors and the tenants, and also any other landed rights to which, by the law or custom of the country or of any tribe, any person may have legal or equitable claim:

Provided that no claim shall be heard to any rights or interests of which the claimant has not held possession either himself or through persons from whom he claims at some time since the first day of January, 1850.

Form of record of rights.

13. The record-of-rights to be prepared by a Settlement-officer shall show the nature and incidents of each right and interest held by each class of occupiers or owners in a village, or, if need be, of each individual owner, occupier or headman in a village.

Notice when record-of-rights about to be prepared.

14. The Settlement-officer shall give due notice to the people of a village for which he is about to prepare a record-of-rights, so that all persons interested may bring forward their claims either in writing or by verbal application.

But the Settlement-officer shall inquire into, settle and record all rights in,

[a-a] These words in s. 9 have been inserted by Reg. II of 1886, s. 4.

or claims to, the lands of a village of which he is preparing a record-of-rights, even though such claims or rights may not be urged by the parties interested.

Demarcation of excess waste.

15. The Settlement-officer shall demarcate and define the boundaries of each village, and, when doing so, he may exclude from such village any large area of waste or forest which may be beyond the reasonable requirements of the village:

Provided that no block of waste-land or forest of which the people of the village have hitherto had the use shall be excluded from such village if before such exclusion one-third of the total area of the village is cultivated or is fallow in due course of agricultural rotation, according to the practice of the country.

The exclusion of any waste-land from any village under this provision shall not affect any proprietary rights in the land, but such rights shall remain intact.

Review of decisions regarding rights of village-headmen.

16. Any decision regarding the rights of the mánjhis or other village-headmen, passed by any officer appointed under Act XXXVII of 1855, which may on due inquiry be found by the Settlement-officer to have been passed under a misapprehension as to the laws in force in the Sonthal Pergunnahs, or without sufficient inquiry into, and regard for, the customs of the country and of the people, may be reviewed and modified by such Settlement-officer.

Mánjhis or village-headmen.

17. In deciding the status, rights and claims of mánjhis or other village-headmen, the Settlement-officer shall have regard to the following rules:—

(*a*) any mánjhi or other headman of a village, who may have lost his office, or the management of his village, for whatever cause, or in whatever manner, on any date after the thirty-first December, 1858, shall be eligible for reinstatement in such headship, and in the lease or management of the village, if he has a fair and equitable claim thereto;

(*b*) no claim to be recorded as mánjhi or headman with an occupancy-right in the lease or management of a village shall be conclusively shut out by reason of the claimant having been described as a mustájir or farmer in any deed to which such claimant may have been a party:

(*c*) if the rent now payable by any mánjhi or headman of a village appear to the Settlement-officer inequitable, by reason that such person has rights independent of contract, or that he was not in a position fairly and freely to contract, the Settlement-officer may modify and abate such rent and fix a fair and equitable rent:

if the rent appears to the Settlement-officer to be too low, he may enhance such rent either immediately or prospectively on the termination of any existing agreement:

the rent payable by any mánjhi, farmer or other headman of a village shall be determined on a consideration of the rates of rent payable in the neighbourhood, and of the number of ploughs at work in the village and of such other matters as may appear to the Settlement-officer to afford ground for an equitable decision :

if necessary, the cultivated and uncultivated land in such village may be measured.

Rights of raiyats or cultivators.

18. In deciding the status, rights and claims of raiyats or occupiers, the Settlement-officer shall have regard to the following rules :—

(*a*) any raiyat who may, either himself or through persons from whom he inherits, have held fields in a village for a period of twelve years shall be deemed to have occupancy-rights in such fields :

(*b*) any raiyat who, having possessed a right of occupancy or an equitable claim to occupancy, has lost possession of his land or any portion of his land since the thirty-first day of December, 1858, may claim to be replaced in possession of such land, and to be recorded as possessing occupancy-rights therein, if in the opinion of the Settlement-officer he is justly entitled thereto :

(*c*) any raiyat who has exchanged fields for other fields in the same village shall be held to have acquired an occupancy-right in the fields taken in exchange in the same manner as if no exchange had taken place :

(*d*) where raiyats holding lands under a mánjhi or other headman of a village pay their share of the village-rent according to any fixed custom or proportion, or where the share of rent payable by each raiyat is fixed annually or periodically by the village-elders or in any other way, the existence of such custom shall be recorded :

(*e*) when the raiyats of any village pay rent either direct to the proprietor or to his agent, or to any farmer, or to a mánjhi, the Settlement-officer shall record such rents if they are fair and equitable :

if such rent appear to the Settlement-officer to be unfair and inequitable, he shall inquire into and shall re-settle such rents ; and he may make such re-settlement of rents, either according to the number of ploughs owned by each raiyat, or according to the area of the cultivated land held by him, or in any other manner which may be customary and equitable.

19. [*Term for rents.*] *Rep. by Reg. II of 1886, s. 5.*

Special considerations in adjusting rents.

20. In adjusting rents as between proprietors and mánjhis or other headmen, and between proprietors, farmers or headmen and raiyats, the Settlement-officer may, in connection with other circumstances, have regard to the agri-

cultural skill and habits of life of the class or tribe to which the rent-payers may belong.

Settlement of rent of land reclaimed from forest or waste.

21. In any case in which the headmen or the raiyats or the persons through whom they claim reclaimed the land from forest or waste, regard shall be had to such fact in settling the rents.

Instalments of rent.

22. The Settlement-officer shall decide, and shall enter in the village-record-of-rights, the several instalments of yearly rent and the dates on which such instalment shall be payable by the raiyats and by the mánjhis or headmen.

If the number and dates of the existing instalments press hardly upon the people of any village, the Settlement-officer shall have power to reduce the number and alter the dates of such instalments.

The amount and dates of the instalments shall remain unaltered until otherwise ordered by the Lieutenant-Governor.

Record of village-customs.

23. For every village shall be drawn up a paper setting forth the custom of the village or tribe in regard to the following facts:—

(*a*) the existence of the office of mánjhi or other village-headship and the duties and emoluments of each headman, and the customs of succession to the headship by inheritance, election or otherwise:

(*b*) the removal or suspension of a headman for misconduct, and the appointment or election to a vacant headship:

(*c*) the devolution of the lands held by proprietors or under-proprietors or headmen or cultivated by raiyats, any custom contrary to the ordinary Hindu or Muhammadan law being noted:

(*d*) the tenure of houses in the village, and the payment of ground-rents and dues by non-cultivating residents:

(*e*) the duties and dues of village-watchmen and other village-servants, and their succession to, and removal from, office:

(*f*) the management and usufruct of the waste-land, and other matters relating to the internal arrangement of villages.

Publication of record-of-rights.

24. After the Settlement-officer shall have made the record-of-rights for any village, he shall notify and publish the contents of such record to the persons interested by posting it conspicuously in the village and otherwise in such manner as may be convenient.

Objections against such record.

Any person interested shall thereupon be allowed to bring forward in the original or appellate Settlement Courts any objection he may desire to make to any part of such record; and the objection so made shall be inquired into and disposed of by a decision in writing under the hand of the officer presiding in the Court before which such objection may be urged or brought on appeal or otherwise.

Record to be final after a year's publication.

25. After a period of a year from the date of the publication of the record-of-rights of any village, such record shall be conclusive proof of the rights and customs therein recorded, other than the rights mentioned in the latter part of this section, except so far as concerns entries in such record regarding which objections by parties interested may still be pending.

[a]When a record-of-rights has become final, or an objection to any entry in a record-of-rights has been finally disposed of by the Settlement-officer, the record shall not, until a fresh settlement is made or a new table-of-rates and rent-roll are prepared, be reopened without the previous sanction of the Lieutenant-Governor.[a]

But, in case of the discovery of material error, it shall be lawful for the said Lieutenant-Governor to direct, by a writing under his hand, that the record of any village shall be revised.

The Courts established under Act XII of 1857[b] are empowered to find and determine the rights of zamindárs and other proprietors as between themselves, if any suit affecting such rights be pending at the time when this Regulation shall come into operation, or if a suit or issue be referred to the Court under the provisions of section 5, or if a suit be brought to contest the finding or record of the Settlement-officer within three years from the date of the said publication or of the final order of the Revenue Court.

But no such suit shall be brought in any Court after the expiration of three years from such date.

If in any such suit it shall be found that the finding of the Settlement-officer is erroneous, the record shall be amended accordingly.

District officers may take up land-cases,

26. Pending the completion of a settlement under this Regulation, the officers of the Sonthal Pergunnahs appointed under section 2, Act XXXVII of 1855, may, if the Lieutenant-Governor shall so direct, take up and decide under this Regulation, either on their own motion or at the request of the parties, any suit for rent or arrears of rent, or any claim for enhancement or abatement of rent, or any complaint of exaction or improper ouster from land or offices.

Decisions regarding rates of rent or the possession of land or offices passed by these officers under this section shall remain in force until such time as the record-of-rights for the village or villages to which such decision may refer shall be prepared.

and pass provisional orders.

The said officers shall also have power to pass such provisional orders as they may deem required for the maintenance of peace and order in the Sonthal Pergunnahs on all matters referred to in sections 5, 9, 10 and 12 to 24 of this

[a-a] This part of s 25 has been substituted by Reg. II of 1886, s 28

[b] Substituted for Act VI of 1871—see Act XII of 1887, s. 2 (3), *supra*, p. 585.

Regulation; all such provisional orders shall have the force of a decision of Settlement-officers under these Regulations until such time as the record-of-rights shall have been prepared, or the matter shall have been decided by a Settlement Court.

SCHEDULE[a]

OF REGULATIONS AND ACTS IN FORCE IN THE SONTHAL PERGUNNAHS.

Regulations of the Bengal Code.

I of 1793.
VIII of „
XIX of „
XXXVII of „
XXXVIII of „
XVII of 1806.
XX of 1810.
V of 1812.
XI of „
XVIII of „
XXIX of 1814.
XII of 1817
III of 1818.
I of 1819.
I of 1798
VIII of 1800 (section 19)
I of 1801.
X of 1804.
XI of 1806.
II of 1819
VIII of „
I of 1820.
VII of 1823.
VI of 1825.
XI of „
XIII of „
XIV of „
XVII of 1829

Acts of the Governor General of India in Council.

XXI of 1836.
IV of 1837.
XII of 1841.
V of 1843.
IX of 1847.
XX of 1848
XII of 1850.
XVIII of „
XXI of „
XXV of „
XXXIII of „
XXXIV of „
XXXVII of „
VIII of 1851
II of 1853.
VI of „
XII of 1855.
XIII of „
XXIV of „
XXXVII of „
XI of 1856.
XV of „
X of 1857.
XIII of „
III of 1858.
XXXI of „
XXXV of „
XXXVI of „
XL of „
V of 1859.
XI of „
XIV of 1859 (section 15).
IX of 1860.
XLV of „
V of 1861.
IX of „
XVI of 1863
III of 1864
VI of „
XV of „
III of 1865.
X of „
XIV of 1866
XXI of „
VII of 1867.
XXV of „
I of 1868.
IV of 1869.
V of „
XV of „
XX of „
VII of 1870.
X of „
XX of „
XXI of „
XXIII of „
XXVII of „
I of 1871.
V of „
XXIII of „
I of 1872.
III of „

[a] This Schedule has been substituted by Reg III of 1886, s. 6.

Acts of the Governor General of India in Council—concluded.

IX of 1872.
XV of ,,
XVIII of ,,
XIX of ,,
V of 1873
X of ,,
II of 1874
III of ,,
IX of ,,
XIII of 1875
II of 1877
III of ,,
XV of ,,
I of 1878
VI of ,,
VII of ,,
XI of ,,
I of 1879.
VII of ,,
IV of ,,
XI of ,,
XII of ,, (sections 104-108).
XXI of 1879 ,,
VIII of 1880
V of 1881 (sections 153 and 154).
I of 1882
III of ,,
VII of ,,
VIII of ,,
IX of ,,
X of ,,
XI of ,,
XV of ,,
IV of 1883
XIX of ,,
XXI of ,,
III of 1884
XXI of ,,
IX of 1885 (sections 1, 3 & 4)
XIII of 1885
XV of ,,
XVIII of ,,
II of 1886
IV of ,, (section 1)
VII of ,,
X of ,, (sections 1 to 19 & 21 to 25, inclusive)

Acts of the Lieutenant-Governor of Bengal in Council.

III of 1864.
VII of ,,
VIII of ,,
~~II of 1864~~
IV of ,,
VII of ,,
IV of 1865
~~V of ,,~~
VIII of ,,
III of 1866
II of 1867
V of ,,
IV of 1868
VII of ,,
VII of 1869
II of 1871
IV of ,,
IV of 1879
VII of 1876.
VII of ,,
V of 1878.
VII of ,,
II of 1879
IX of ,,
VII of 1880
III of 1881
IV of ,,
I of 1884.
I of 1884.
III of ,,

REGULATION No. V OF 1873[a]

A Regulation for the peace and government of certain Districts on the Eastern Frontier of Bengal.

[*Published in the Gazette of India of 16th August, 1873, p. 738, and in the Calcutta Gazette of 27th August, 1873, p. 1000.*]

Preamble. WHEREAS the Secretary of State for India in Council has by Resolution in

[a] Under s. 5 of the Scheduled Districts Act, 1874, ss. 1—7 and 11 of this Regulation have been extended to that part of the District of Goálpára which is known as the Eastern Dwárs—see Appendix to Assam Supplement.

The Regulation was repealed, in so far as it applied to the Gáro Hills District, by Reg. I of 1876 s. 2, and is now superseded in that district by Reg. I of 1882; the reference to the Gáro Hills in the preamble has therefore been omitted.

Regulations and Acts declared in force in the Sonthal Parganas by Notification under Reg. III of 1872 S 3

Enactments.	Calcutta Gazette
Act A XIV of 1882 (Civil Procedure) SS 223 to 228	1889. Part I p 110
" " VI of 1886 (Births, deaths & marriages Registration)	1889 Part I p 176
" " XII of 1882 (Salt) except S 31	1889 Part I p 737
Bem Act III of 1879 (Steam Boilers)	1890 " p 61
Act IX of 1890 (Railways)	1890 " p 757
" XVI of 1890 (amending Births, deaths, and marriages Regn)	1891 " p 123
" XVII of 1890 (Census)	1891 " p 211
" IV of 1884 (Explosives)	1891 " p 222
" XII of 1886 (Petroleum) so much as relates to dangerous petroleum and the importation of petroleum	1891 " p 557
" XIII of 1890 (Math degnors) S.S. 1, 6, 7, 8	1892 " p 256
" VII of 1889 (Probate & Administration S. 1 cl 1 and S.S. 2 to 10, 18, 20 and 21	
" VII of 1889 (Succession Certificate)	
" I of 1890 (Revenue Recovery)	
" II of 1890 Sections 9 to 15	
" V of 1890 S. 1 cl (1) and SS 2 & 4	
" VI of 1890 (Charitable Endowments)	
" VIII of 1890 (Guardians & Wards)	
" X of 1890 (Amending act XXV of 1867	1892 " p 448
" XI of 1890 (Cruelty to Animals)	
" XVIII of 1890 (Amdg Indian Emigration act 1883)	
" I of 1891 (Cattle Trespass) except SS. 10, 11 & 13	
" II of 1891 (Evidence)	
" IV of 1891 (Criminal Procedure)	
" X of 1891 (Amdg act XIV of 1886 and X of 1882)	
" XII of 1891 (Repealing & Amending) so far as it affects any enactment for the time being in force in the Sonthal Pargs	
" XVIII of 1891 (Bankers Books Evidence)	

Council declared the provisions of Act 33 Vict., cap. 3, section 1, to be applicable[a] to the Districts of Kámrúp, Darrang, Nowgong, Sibságar, Lakhimpur, Khási and Jaintiá Hills, Nágá Hills, Cachar and Chittagong Hills;

And whereas the Lieutenant-Governor of Bengal has proposed to the Governor General in Council a draft of the following Regulation, together with the reasons for proposing the same, for the peace and government of the said districts;

And whereas the Governor General in Council has taken such draft and reasons into consideration, and has approved of such draft, and the same has received the Governor General's assent;

The following Regulation is now published in the Gazette of India, and will be published in the Calcutta Gazette, and will thereupon have the force of law, under the thirty-third of Victoria, chapter 3:—

Local extent.

1. This Regulation shall extend to the districts named in the preamble, and shall come into force on the 1st of November, 1873.

Power to prescribe and alter inner line.

2. It shall be lawful for the Local Government of Bengal, with the previous sanction of the Governor General in Council, to prescribe, and from time to time to alter, by notification in the Calcutta Gazette, a line to be called "The Inner Line" in each or any of the above-named districts.

The Local Government may, by notification in the Calcutta Gazette, prohibit all British subjects, or any class of British subjects, or any persons residing in or passing through such districts from going beyond such line without a pass under the hand and seal of the chief executive officer of such district, or of such other officer as he may authorize to grant such pass; and the Local Government may from time to time cancel or vary such prohibition.

Penalty for crossing line without pass.

3. Any British subject or other person so prohibited, who, after "The Inner Line" has been prescribed and notified in accordance with section 2 of this Regulation, goes beyond such line without a pass, shall be liable, on conviction before a Magistrate, to a fine not exceeding rupees 100 for the first offence, and to a fine not exceeding rupees 500, or to simple or rigorous imprisonment for a term not exceeding three months, or to both, for each subsequent offence.

Power to prescribe form of pass.

4. The Local Government may from time to time prescribe by notification in the Calcutta Gazette a form of pass for each district, and may in such form fix such restrictions or conditions as the Local Government may deem fit, and may require the payment of such dues and fees for such passes as to the Local Government may seem proper.

Any holder of such a pass shall, on breach of any such restriction or condi-

[a] From the 1st January, 1873—see Gazette of India, 14th December, 1872, Pt. I, p. 1157.

tion, be liable on conviction to a fine not exceeding rupees 100 for a first offence, and to a fine not exceeding rupees 500, or to simple or rigorous imprisonment, which may extend to three months, or to both, for each subsequent offence

Confiscation of jungle-product found with offender

5 Any rubber, wax, ivory or other jungle-product found in the possession of any person convicted of an offence under this Regulation may be confiscated to Government by an order to be passed at the time of conviction by the Magistrate

Power to authorize arrest

6. The chief executive officer of any district comprised in any notification as aforesaid may, subject to the approval of the Local Government, authorize, by a written instrument under his hand, any public servant to arrest and bring before him with the least practicable delay—

firstly, any person prohibited from crossing "The Inner Line" prescribed for such district, if such person shall be found beyond the line and when asked to produce his pass shall refuse or be unable so to do:

secondly, any person to whom a pass may have been granted, and who has committed any infraction of its conditions

Acquisition of interest in land by other than Natives of districts comprised in preamble

7. It shall not be lawful for any British subject or other person, not being a Native of the districts comprised in the preamble of this Regulation, to acquire any interest in land or the product of land beyond the said "Inner Line" without the sanction of the Local Government or such officer as the Local Government shall appoint in this behalf.

Any interest so acquired may be dealt with as the Local Government or its said officer shall direct

The Local Government may also, by notification in the Calcutta Gazette, extend the prohibition contained in this section to any class of persons, Natives of the said districts, and may from time to time in like manner cancel or vary such extension

Penalty for illegal killing or capture of elephants

8* Whoever, without the written permission of an officer authorized by the Local Government to grant such permission, kills or captures, or attempts to kill or capture, or abets, within the meaning of the Indian Penal Code, the killing or capturing of, a wild elephant in any of the districts to which this Regulation extends, shall be liable to a fine not exceeding rupees 200 for every such elephant, and any elephant so killed or captured shall be confiscated to Government. LV of 1860

* S 8 has been repealed in the districts of Kamrup, Darrang, Nowgong, Sibságar, Lakhimpur, Cachar, the Nága Hills and the Khási and Jaintiá Hills and the Gáro Hills (with the exception of certain portions of the estates of the zamindars of Moshpára, Bijni and Karaibári)—see Reg I of 1880 s 1, Assam Supplement, and Assam Gazettes, 10th July, 1880, p 330, and 23rd September, 1882, p 453

Provided that no person who kills, or attempts to kill, or abets the killing of, an elephant in protection of himself, his houses or his crops, shall be liable to punishment under this section; and provided also that every person who in the like case captures, or attempts to capture, or abets the capture of, an elephant, shall be exempt from fine under this section, but shall, if the elephant be captured, be bound to surrender it to Government, or to pay such royalty thereon as the Local Government may from time to time direct.

Power to regulate issue of licenses.

9.[*] It shall be competent for the Local Government to make rules for the issue of licenses to kill or capture elephants, and for all purposes connected with the capture of elephants.

Limitation of prosecution.

10.[*] The prosecution for every offence punishable under section 8 of this Regulation shall be commenced within six calendar months after the offence is committed.

Jurisdiction as to offences.

11. Offences against this Regulation may be tried by Magistrates of the first or second class, and shall be bailable.

REGULATION No. III OF 1881.

The Chittagong Hill Tracts Frontier Police Regulation, 1881.

Published in the Gazette of India of 3rd December, 1881, and in the Calcutta Gazette of 7th December, 1881.]

Preamble.

WHEREAS the Frontier Police of the Hill Tracts of Chittagong enrolled under Act No. V of 1861 (*for the regulation of Police*) perform services of a quasi-military character; and whereas the provisions of the said Act, and the orders and rules framed under section 12 thereof, have been found insufficient for the maintenance of discipline among such police, and it is therefore expedient to make further provision for the maintenance of discipline among them; It is hereby enacted as follows:—

Short title.

1. This Regulation may be called the Chittagong Hill Tracts Frontier Police Regulation, 1881.

Local extent.

It applies to all persons now or hereafter appointed under the said Act No. V of 1861 to be Frontier Police-officers and posted to the Hill Tracts of Chittagong;

Commencement.

and it shall come into force at once.

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[*] Ss. 9 and 10 have been repealed in the districts of Kámrúp, Darrang, Nowgong, Sibságar, Lakhimpur, Cachar, the Nágá Hills and the Khási and Jaintiá Hills and the Gáro Hills (with the exception of certain portions of the estates of the zamindárs of Mesbpára, Bijni and Karaibári)—see Reg. I of 1880, s. 1, Assam Supplement, and Assam Gazettes, 10th July, 1880, p. 340, and 23rd September, 1882, p. 453.

Interpretation-clause.

2. In this Regulation, unless there is something repugnant in the subject or context,—

'active service';

"active service" means service at the frontier outposts, or against hostile tribes or other persons in the field;

"Deputy Commissioner" and "District Superintendent";

"Deputy Commissioner" and "District Superintendent" mean the Deputy Commissioner of the Hill Tracts of Chittagong and the District Superintendent of Police within the same tracts, respectively; and

"reason to believe", "criminal force", "assault" and "fraudulently".

the expressions "reason to believe", "criminal force", "assault" and "fraudulently" have the meanings assigned to them respectively in the Indian Penal Code. XLV of 186

More heinous offences.

3. Any person subject to this Regulation, not being above the rank of subahdár, who—

(*a*) begins, excites, causes or joins in any mutiny or sedition, or, being present at any mutiny or sedition, does not use his utmost endeavours to suppress the same, or, knowing or having reason to believe in the existence of any mutiny, or of any intention to mutiny, does not without delay give information thereof to his commanding or other superior officer; or

(*b*) uses, or attempts to use, criminal force to, or commits an assault on, his superior officer, whether on or off duty, under any circumstances in which the superior officer is distinguishable as such in any manner; or

(*c*) shamefully abandons or delivers up any garrison, fortress, post or guard committed to his charge, or which it is his duty to defend; or

(*d*) directly or indirectly holds correspondence with, or assists or relieves, any persons in arms against the State, or omits to discover immediately to his commanding or other superior officer any such correspondence coming to his knowledge; and

any such person who, while on active service,—

(*e*) disobeys the lawful command of his superior officer; or

(*f*) deserts the service; or,

(*g*) being a sentry, sleeps upon his post, or quits it without being regularly relieved or without leave; or

(*h*) without authority, leaves his commanding officer, or his post or party, to go in search of plunder; or

(*i*) quits his guard, picquet party or patrol without being regularly relieved or without leave; or

(*j*) uses criminal force to, or commits an assault on, any person bringing provisions or other necessaries to camp or quarters, or forces a safeguard, or without authority breaks into any house or any other place for plunder, or plunders, destroys or damages any field, garden or other property of any kind; or

(*k*) intentionally causes or spreads a false alarm in action, camp, garrison or quarters,

shall be punished with transportation for life or for a term of not less than seven years, or with imprisonment, with or without hard labour, for a term which may extend to fourteen years.

Less heinous offences.

4. Any person subject to this Regulation, not being above the rank of subahdár, who—

(*a*) is in a state of intoxication when on or for any duty, or on parade or on the line of march; or

(*b*) strikes or attempts to force any sentry; or

(*c*) being in command of a guard, picquet or patrol, refuses to receive any prisoner duly committed to his charge, or without proper authority releases any prisoner, or negligently suffers any prisoner to escape, or

(*d*) being under arrest or in confinement, leaves his arrest or confinement before he is set at liberty by proper authority; or

(*e*) is grossly insubordinate or insolent to his superior officer in the execution of his office; or

(*f*) refuses to superintend or assist in the making of any field-work or other military work of any description ordered to be made either in quarters or in the field; or

(*g*) strikes or otherwise ill-uses any person subject to this Regulation being his subordinate in rank or position; or

(*h*) being in command at any post or on the march, and receiving a complaint that any one under his command has beaten or otherwise maltreated or oppressed any person, or has committed any riot or trespass, fails to have due reparation made to the injured person, or to report the case to the proper authority; or

(*i*) designedly or through neglect injures or loses, or fraudulently disposes of, his arms, clothes, tools, equipments, ammunition, accoutrements or regimental necessaries, or any such articles entrusted to him or belonging to any other person; or

(*j*) malingers, feigns or produces disease or infirmity in himself, or intentionally delays his cure, or aggravates his disease or infirmity; or

(*k*) with intent to render himself or any other person unfit for service, voluntarily causes hurt to himself or any other person; and

any such person who, while not on active service,—

(*l*) disobeys the lawful orders of his superior officer; or

(*m*) plunders, destroys or damages any field, garden or other property; or

(*n*) being a sentry, sleeps upon his post, or quits it without being regularly relieved, or without leave,

shall be punished with imprisonment, with or without hard labour, which may extend to one year.

Corporal punishment

5. Any person subject to this Regulation, not being above the rank of havildár, who, while on active service, commits any of the offences specified in section 3, or in section 4, clauses (*a*) to (*k*), both inclusive, may, in lieu of or in addition to any punishment to which he is liable under those sections, be punished with whipping.

In no case, if the cat-of-nine-tails be the instrument employed, shall the punishment of whipping exceed fifty lashes, or, if the ratan be employed, shall the punishment exceed thirty stripes.

Minor punishments.

6. In addition to the powers conferred upon them by the rules made under section 12 of the said Act No. V of 1861, the Deputy Commissioner, the District Superintendent, or an Assistant District Superintendent of Police in command of a detachment, may, without a formal trial, award to any person subject to his authority and to whom this Act applies the following punishments for the commission of petty offences against discipline which are not otherwise provided for or which are not of a sufficiently serious nature to call for a prosecution before a Criminal Court (that is to say):—

(*a*) imprisonment to the extent of seven days in the quarter-guard, or such other place in or near the lines as may be considered suitable, with forfeitures of all pay and allowances during its continuance;

(*b*) punishment-drill, extra guard, fatigue or other duty, not exceeding thirty days in duration, with or without confinement to lines.

Any of these punishments may be awarded separately or in combination with the others.

Where person sentenced to imprisonment to be confined.

7. Any person sentenced under this Regulation to imprisonment for a period not exceeding three months shall, when also dismissed the service, be imprisoned in the nearest jail; but, when not also dismissed the service, he may, at the discretion of the convicting officer, subject to revision by the Deputy Commissioner, be confined in the quarter-guard or such other place as such officer may consider suitable.

Prosecutions, &c., under other enactments.

8. Nothing in this Regulation shall prevent any person from being prosecuted under the said Act No. V of 1861 or any order or rule framed thereunder, or under any other enactment for the time being in force, for any act or omission punishable hereunder, or from being liable under any other enactment to any other or higher penalty than is provided for such act or omission by this Regulation:

Provided that no person shall be punished twice for the same offence.

Magisterial powers of police-officers.

9. Nothing contained in the said Act No. V of 1861 shall be deemed to prevent the Local Government from investing any police-officer with the powers of a Magistrate for the purpose of inquiring into or trying any offence committed by a police-officer and punishable under the said Act or this Regulation.

THE SONTHAL PERGUNNAHS RENT REGULATION.

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8. Contents of application.
9. Power for Deputy Commissioner to reject application.
10. Submission of application by Deputy Commissioner to Commissioner.
11. Power for Commissioner to direct preparation of table-of-rates and rent-roll
12. Preparation of table-of-rates.
13. Preparation of rent-roll.
14 Preliminary publication of table and roll.
15. Disposal of objections to table or roll.
16. Amendment of table or roll.
17. Final publication of table and roll.
18. Continuance of table and roll.
19. Commencement of operation of roll.

Determination of Rent under this Regulation in Unsettled Tracts.

20. Application of sections 7 to 19 to unsettled lands.

Supplemental Provisions.

21. Employment of subordinate officers to prepare tables-of-rates and rent-rolls.
22. Cost of proceedings.
23. Application by Settlement-officer of table-of-rates to waste included by him in a village.

New Tenancies.

24. Regulation of rents of new tenancies.

Protection of Raiyats from Ejectment.

25. Exemption of raiyats from liability to ejectment except by order of Deputy Commissioner.

Appeal and Revision.

26. Appeal.
27. Revision.

CHAPTER III.

MISCELLANEOUS.

28. Amendment of section 25 of Regulation III of 1872.
29. Power of Lieutenant-Governor to order amendment of record-of-rights when table-of-rates and rent-roll are prepared.
30. Power to make rules.
31. Power to exclude land from operation of provisions regarding determination and adjustment of rent.

REGULATION No. II OF 1886.

A Regulation for the Determination of Rents in the Sonthal Pergunnahs.

[*Published in the Gazette of India of 7th August, 1886, and in the Calcutta Gazette of 11th idem.*]

Reg. III of 1872.

WHEREAS section 19 of the Sonthal Pergunnahs Settlement Regulation provides that the rents of both headmen and raiyats within the Sonthal Pergunnahs, when adjusted and recorded by the Settlement-officer under the provisions of that Regulation, shall remain unchanged for not less than seven years from the time of the adjustment and record and thenceforward until a fresh settlement or agreement be made;

And whereas it is expedient to provide that rents within the Sonthal Pergunnahs shall not be changed except by the Settlement-officer in the course of settlement-proceedings under the Sonthal Pergunnahs Settlement Regulation or by the Deputy Commissioner in accordance with the procedure prescribed in this Regulation;

And whereas it is also expedient to amend the Sonthal Pergunnahs Settlement Regulation in manner hereinafter appearing;

It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title, commencement and construction.

1. (*1*) This Regulation may be called the Sonthal Pergunnahs Rent Regulation, 1886.

(*2*) It shall come into force at once; and

(*3*) It shall be read with, and be taken as supplementary to, the Sonthal Pergunnahs Settlement Regulation.

Definitions.

2. In this Regulation, unless there is something repugnant in the subject or context,—

(*1*) "Commissioner" means the Commissioner of the Bhágalpur Division; and

(*2*) "Deputy Commissioner" means the Deputy Commissioner of the Sonthal Pergunnahs and includes any person invested by the Lieutenant-Governor with the powers of a Deputy Commissioner for all or any of the purposes of this Regulation.

CHAPTER II.

RENT.

Rule of general application throughout the Sonthal Pergunnahs.

Mode of changing rents.

3. Notwithstanding any agreement to the contrary, the rent of a headman or of a raiyat shall not be changed, except by the Settlement-officer in the course of settlement-proceedings under the Sonthal Pergunnahs Settlement Regulation, or by the Deputy Commissioner in accordance with the procedure prescribed in this Regulation. Reg III of 1872.

Adjustment of Rents under the Settlement Regulation.

Power to order settlement exerciseable from time to time under Regulation III of 1872.

4. In section 9 of the Sonthal Pergunnahs Settlement Regulation, after the words "the Lieutenant-Governor may" the words "from time to time" shall be inserted.

Repeal of section 19 of Regulation III of 1872.

5. Section 19 of the same Regulation is hereby repealed.

Term for which rent adjusted under Regulation III of 1872 remains fixed.

6. Notwithstanding any agreement to the contrary, rents of headmen and raiyats, adjusted and recorded by the Settlement-officer in the course of a settlement under the Sonthal Pergunnahs Settlement Regulation, shall remain unchanged—

(*a*) in the case of a settlement made before this Regulation comes into force, for seven years from the time of the adjustment and record, or for such longer period (if any) as may have been specified in the record of the settlement in this behalf;

(*b*) in the case of a settlement made after this Regulation comes into force, for fifteen years from the time of the adjustment and record;

(*c*) in the case of a settlement made either before or after this Regulation comes into force, until within the period mentioned in clause (*a*) or clause (*b*), as the case may be, of this section the rents are changed in the course of a fresh settlement.

Determination of Rents under this Regulation in Settled Tracts.

Power to apply for preparation of table-of-rates of rent.

7. Subject to the provisions of sections 6 and 18—

(*a*) the zamindár or other proprietor of a village which has been settled under the Sonthal Pergunnahs Settlement Regulation, or

(*b*) the mánjhi or other headman of any such village, or

(*c*) any number, not being less than one-half, of the cultivating raiyats of any such village,

may, if dissatisfied with the rents payable in the village, apply to the Deputy Commissioner to prepare a table-of-rates of rent for the village and to determine the rents on the basis thereof.

Contents of application.

8. Every application under section 7 shall set forth precisely the grounds upon which the existing rents are sought to be changed.

Power for Deputy Commissioner to reject application.

9. If the Deputy Commissioner considers that any application under section 7 is not admissible under that section, or is of opinion, on a consideration of the grounds set forth in the application or after such further inquiry as he deems necessary, that the rents ought not to be changed, he shall reject the application.

Submission of application by Deputy Commissioner to Commissioner.

10. If the Deputy Commissioner finds that the application is admissible under section 7, and is of opinion, on a consideration of the grounds set forth in the application, or after such further inquiry as he deems necessary, that the rents ought to be changed, he shall submit the application with his recommendations for the orders of the Commissioner.

Power for Commissioner to direct preparation of table-of-rates and rent-roll.

11. The Commissioner may in his discretion either reject the application or direct the Deputy Commissioner to prepare for his approval a table-of-rates of rent for the village and a rent-roll based thereon.

Preparation of table-of-rates.

12. In preparing the table-of-rates the Deputy Commissioner shall, subject to such rules, if any, as the Lieutenant-Governor may from time to time prescribe, ascertain and record such rates for the different classes of land as seem to him, due regard being had to existing rents, to be fair and equitable.

Preparation of rent-roll.

13. (*1*) In preparing the rent-roll on the basis of the table-of-rates the Deputy Commissioner shall have regard to such circumstances as, in adjusting rents under the Sonthal Pergunnahs Settlement Regulation, the Settlement-officer would have regard to.

Reg. III of 1872.

(*2*) When the Deputy Commissioner has prepared the rent-roll, he shall determine the rent payable by the village-headman and specify that rent also in the rent-roll.

Preliminary publication of table and roll.

14. When the table-of-rates and rent-roll have been approved by the Commissioner, the Deputy Commissioner shall cause them to be locally published in such manner as the Lieutenant-Governor may from time to time prescribe.

Disposal of objections to table or roll.

15. (*1*) When the table-of-rates and rent-roll have been published under section 14, any person interested may present a petition in writing to the Deputy Commissioner specifying any objection which he may desire to make with respect to the table or roll or both.

(*2*) The Deputy Commissioner shall consider the objection and, after such

inquiry as he may deem necessary, record an order with respect thereto, either dismissing the objection or proposing for the approval of the Commissioner such amendment of the table or roll or both as may seem to be proper.

Amendment of table or roll.

16. When an amendment of the table-of-rates or of the rent-roll or of both is approved by the Commissioner on a proposal under section 15, sub-section (*2*), or is ordered by the Deputy Commissioner of the Sonthal Pergunnahs or by the Commissioner under section 26, or by the Lieutenant-Governor under section 27, the Deputy Commissioner shall cause the table or roll or both to be amended in conformity with the directions of the authority approving or ordering the amendment.

Final publication of table and roll.

17. After the expiration of a year from the date of the preliminary publication under section 14, the table-of-rates and rent-roll, with such amendments, if any, as have been made therein under section 16, shall be locally published in such manner as the Lieutenant-Governor may from time to time prescribe.

Continuance of table and roll.

18. The rates and rents specified in a table and roll finally published under section 17 shall, subject to any order under section 26 or section 27, remain unchanged for a period of fifteen years from the date of the publication under that section, and thereafter until a new table-of-rates and rent-roll have been published under section 17, or, if before the expiration of the period of fifteen years or before a new table and roll have been published the rents are adjusted and recorded under the Sonthal Pergunnahs Settlement Regulation, then until the date of that adjustment and record. Reg III of 1872.

Commencement of operation of roll.

19. The rents specified in a rent-roll published under section 17 shall, notwithstanding any agreement to the contrary, take effect from such date as the Deputy Commissioner may appoint.

Determination of Rent under this Regulation in Unsettled Tracts.

Application of sections 7 to 19 to unsettled lands.

20. (*1*) An application may at any time be made to the Deputy Commissioner for the preparation of a table-of-rates, and of a rent-roll based thereon, for lands which have not been settled under the Sonthal Pergunnahs Settlement Regulation.

(*2*) In the case of an application under sub-section (*1*), the rules prescribed in sections 7 to 19 shall be subject to the following modifications, namely :—

(*a*) any less number than one-half of the raiyats may make the application;

(*b*) if the Deputy Commissioner is of opinion that the rents ought to be changed, he may prepare and publish the table-of-rates and rent-roll on his own authority and without reference to the Commissioner;

(*c*) the Deputy Commissioner may, on consideration of an objection, amend the table or roll or both on his own authority and without reference to the Commissioner; and

(*d*) the table and roll, with such amendments, if any, as may have been made therein, may be finally published after the expiration of one month from the date of the preliminary publication.

Supplemental Provisions.

Employment of subordinate officers to prepare table-of-rates and rent-rolls.

21. In the preparation of table-of-rates and rent-rolls under this Regulation the Deputy Commissioner may employ any Deputy Collector, Assistant Collector or Sub-Deputy Collector.

Cost of proceedings.

22. (*1*) The costs of all proceedings connected with an application under section 7 or section 20 of this Regulation, including the pay of all establishments employed under the orders of the Deputy Commissioner, and such proportion of the salary of any gazetted officer employed as the Commissioner may direct, shall be recoverable as a public demand under Bengal Act VII of 1880.

(*2*) Such costs shall ordinarily be recoverable from the person making the application, but the Deputy Commissioner may in any case—

(*a*) direct that the costs shall be distributed among, and be recoverable from, all or any of the parties interested in the preparation of the table-of-rates and rent-roll, in such manner as may seem to him equitable, and

(*b*) require the deposit, by any person interested, of such proportion of the costs of the proceedings as may seem to him equitable, and suspend the proceedings pending the making of the deposit.

(*3*) When the Deputy Commissioner directs that any costs shall be recoverable from raiyats under this section, he may further direct that they shall be recoverable through the headman, and may fix a date after which they shall be recoverable from the headman personally if they have not before that date been paid to the Deputy Commissioner or as the Deputy Commissioner directs.

Application by Settlement-officer of table-of-rates to waste included by him in a village.

Reg. III of 1872.

23. When any waste or forest, which has been excluded from a village under section 15 of the Sonthal Pergunnahs Settlement Regulation, is subsequently settled, the Settlement-officer may, if he thinks fit, direct its inclusion within any village and declare that the table-of-rates (if any) for the time being in force under this Regulation for that village shall be applicable thereto.

New Tenancies.

Regulation of rents of new tenancies.

24. (*1*) When, after rents have been recorded under the Sonthal Pergunnahs Settlement Regulation, or a rent-roll has been prepared under section 13 of this Regulation, for a village in which a settlement has been made under the former Regulation, a tenancy comes into existence in the village which, if it had been in existence in the village when the record or the rent-roll was prepared, would have been included therein, the rent payable in respect of the tenancy shall be regulated as follows :— Reg III of 1872.

(i) if the tenancy is of reclaimed waste or forest—

(*a*) the rent for the first seven years after the reclamation shall not exceed half the rent which the Settlement-officer has admitted as fair and equitable in the case of land of similar quality in the village, or, as the case may be, which is payable for such land under the table-of-rates on which the Deputy Commissioner based the rent-roll of the village, and

(*b*) the rent after the first seven years shall not exceed the full rent computed as aforesaid;

(ii) if the tenancy is of an abandoned, surrendered or forfeited holding, the rent shall not exceed the rent which the Settlement-officer has or would have fixed for the holding, or, as the case may be, which is payable under the table-of-rates for such land as is comprised in the holding.

(*2*) Rent payable under this section may be changed on the final publication of a new rent-roll of the village under this Regulation or on an adjustment and record of rents under the Sonthal Pergunnahs Settlement Regulation.

(*3*) If any dispute arises as to the rent payable in respect of a tenancy under this section, it shall, on application for that purpose by either of the disputing parties to the Deputy Commissioner, be determined by him.

Protection of Raiyats from Ejectment.

Exemption of raiyats from liability to ejectment except by order of Deputy Commissioner.

25. A raiyat, whether recorded as possessing a right of occupancy or not, shall not be ejected from his holding otherwise than in execution of an order of the Deputy Commissioner.

Appeal and Revision.

Appeal.

26. An appeal from an order of the Deputy Commissioner under section 9, 15, 20, 22, 24 or 25, or from an order of the Settlement-officer under section

23, shall, if presented within three months from the date of the order appealed against, lie—

(*a*) when the officer making the order is a person invested by the Lieutenant-Governor with the powers of a Deputy Commissioner for all or any of the purposes of this Regulation—to the Deputy Commissioner of the Sonthal Pergunnahs;

(*b*) when the Deputy Commissioner making the order is the Deputy Commissioner of the Sonthal Pergunnahs, or the order is made by a Settlement-officer—to the Commissioner.

27. All proceedings of the Deputy Commissioner, Settlement-officer or Commissioner under this Regulation shall be subject to control, revision and alteration by the Lieutenant-Governor.

CHAPTER III.

MISCELLANEOUS.

Amendment of section 25 of Regulation III of 1872.

Reg. III of 1872.

28. For the second sentence of the first clause of section 25 of the Sonthal Pergunnahs Settlement Regulation, the following sentence shall be substituted:—

[See *supra*, *p. 604.*]

Power of Lieutenant-Governor to order amendment of record-of-rights when table-of-rates and rent-roll are prepared.

29. Whenever a table-of-rates and rent-roll are prepared for a village under this Regulation, the Lieutenant-Governor may, by special order, empower the officer making the table-of-rates and rent-roll to amend the whole or any part of the record-of-rights of the village.

30. (*1*) The Lieutenant-Governor may, from time to time, make rules consistent with this Regulation for the guidance of officers in all matters connected with its enforcement.

(*2*) All such rules shall be published in the local official Gazette, and shall thereupon have the force of law.

Power to exclude land from operation of provisions regarding determination and adjustment of rent.

31. The Lieutenant-Governor may, from time to time, by notification in the local official Gazette, exclude any land from the operation of this Regulation and of such portions of the Sonthal Pergunnahs Settlement Regulation as relate to the adjustment and record of rents.

REGULATION No. III OF 1886.

A Regulation for determining the Law in force in the Sonthal Pergunnahs.

[*Published in the Gazette of India of 21st August, 1886, and in the Calcutta Gazette of 25th idem.*]

Short title, commencement and construction.

1. (*1*) This Regulation may be called the Sonthal Pergunnahs Laws Regulation, 1886.

(*2*) It shall come into force at once; and

(*3*) It shall be read with, and taken as part of, the Sonthal Pergunnahs Settlement Regulation. Reg. III of 1872.

Substitution of new sentence for the first sentence of section 3 of Regulation III of 1872.

2. For the first sentence of section 3 of the Sonthal Pergunnahs Settlement Regulation the following sentence shall be substituted, namely :—

(See *supra*, *p. 597.*)

Amendment of the second sentence of same section.

3. In the second sentence of the same section, after the words "Regulations or Acts" the words "heretofore or hereafter passed" shall be inserted.

New sentence inserted in same section.

4. After the same sentence of the same section the following sentence shall be inserted :—

(See *supra*, *p. 598.*)

Amendment of fourth sentence of same section.

5. In the fourth sentence of the same section as amended by section 4 of this Regulation, after the words "or any other Act" the words "heretofore or hereafter" shall be inserted.

Substitution of new schedule for schedule to Regulation III of 1872.

6. For the schedule annexed to the Sonthal Pergunnahs Settlement Regulation the schedule annexed to this Regulation shall be substituted.

SCHEDULE

OF REGULATIONS AND ACTS IN FORCE IN THE SONTHAL PERGUNNAHS.

(See *supra*, *p. 605.*)

APPENDIX.

ENACTMENTS LOCALLY NOTIFIED UNDER THE SCHEDULED DISTRICTS ACT, 1874.

The Scheduled Districts of Bengal are (*see Part III, Schedule I of Act XIV of 1874*):—

I.—The Jalpáiguri and Darjeeling Districts.[a]
II.—The Hill Tracts of Chittagong.
III.—The Sonthal Pergunnahs.
IV.—The Chota Nagpore Division.[b]
V.—The Mahál of Angúl.[c]

I.—The Jalpáiguri and Darjeeling Districts.

The Scheduled Districts Act, 1874, was brought into force in these districts by the following Notifications:—

The 4th September, 1875.

No. 745.—In exercise of the powers conferred by the Scheduled Districts Act, 1874, section 3, the Lieutenant-Governor, with the previous sanction of the Governor General in Council, is pleased to declare that the said Act is in force in that part of the Jalpáiguri and Darjeeling Divisions, being one of the Scheduled Districts of the Lower Provinces of Bengal, known as the Western Dvárs.

[Published, Calcutta Gazette, 15th September, 1875, Pt. I, p. 1148, and Gazette of India, 25th September, 1875, Pt. I, p. 497.]

The 5th November, 1877.

No. 1664A.—In exercise of the power conferred by section 3 of Act XIV of 1874 (the Scheduled Districts Act), His Honour the Lieutenant-

[a] Styled "Divisions" in Act XIV of 1874.

[b] The Thánás of Raipur and Khattra ceased to form part of the Scheduled District of Chota Nagpore on their transfer from the Manbhoom to the Bankoora District—see Act XIX of 1879, s. 4, *supra*, p. 441.

[c] Previous to the 1st April, 1882, the Mahál of Banki was united with the Mahál of Angul in one Scheduled District—see Act XXV of 1881, s. 4, *supra*, p. 446.

I —The Jalpáiguri and Darjeeling Districts—*continued*

Governor of Bengal is pleased, with the previous sanction of the Governor General in Council, to declare that the said Act is in force in the—

Districts of Darjeeling and Jalpáiguri (called in Act XIV of 1874 the Jalpáiguri and Darjeeling Divisions), } excepting that part, known as the Western Dvárs, to which the Act has already been extended

[Published, Calcutta Gazette 14th November, 1877, Pt I, p 1623, and Gazette of India, Extraordinary, 14th November, 1877]

Enactments declared in force or extended

Year	No	Subject	Extent to which declared in force or extended	Places in or to which declared in force or extended	Notifications
			(*1*) —*Bengal Regulations* [a]		
1793	I	Revenue Settlement declared permanent	The extent to which it was, on the 3rd March, 1881, in force in any part of Bengal not included in any Scheduled District and had not been repealed by any enactment extending to the Jalpáiguri and Darjeeling Districts	That portion of the Jalpáiguri Division which was formerly the Jalpáiguri Sub division and now forms the western portion of the district of Jalpáiguri and extends as far east as the Teesta river	*No 308, dated the 3rd March, 1881* —In exercise of the power conferred by section 9 of Act XIV of 1874 (the Scheduled Districts Act, 1874), His Honour the Lieutenant-Governor of Bengal is pleased, with the previous sanction of the Governor General in Council, to declare that the enactments mentioned in the schedules hereto annexed are in force in the portions of the Districts of Jalpáiguri and Darjeeling (called in Act XIV of 1874 the Jalpáiguri and Darjeeling Divisions) to which the said schedules respectively relate to the extent to which they are now in force in any part of Bengal not included in any Scheduled District, and have not been repealed by any enactment extending to the Jalpáiguri and Darjeeling Districts

[a] Ben Regs I of 1793 XVII of 1806 VI of 1819 and XX of 1825 have been omitted from this list as they were respectively repealed by Act IV of 1882 Ben Act I of 1885 and Act X of 1882 which extend to these districts

[b] This tract is hereinafter referred to as West Jalpáiguri .

I.—The Jalpáiguri and Darjeeling Districts—*continued.*

Enactments declared in force or extended—continued.

Year.	No.	Subject.	Extent to which declared in force or extended.	Places in or to which declared in force or extended.	Notifications.
			(*1*).—*Bengal Regulations*—continued.		
1793	I—*concld.*				2. Nothing herein contained shall be deemed to affect the operation of any enactment in force in the Jalpáiguri and Darjeeling Districts and not mentioned in the said schedules. (Here follow the schedules.) [Published, Calcutta Gazette, 9th March, 1881, Pt. IA., p. 68, and Gazette of India, 5th March, 1881, Pt. I, p. 74.]
,,	II	Collectors and Board of Revenue.	The extent to which it was, on the 3rd March, 1881, in force in any part of Bengal not included in any Scheduled District, and had not been repealed by any enactment extending to the Jalpáiguri and Darjeeling Districts.	West Jalpáiguri.	Ditto.
,,	VIII	Decennial Settlement.	Ditto . .	Ditto . .	Ditto.
,,	XI	Inheritance.	Ditto . .	Ditto . .	Ditto.
,,	XIX	Non-bádsháhí Lákhiráj grants.	Ditto . .	Ditto . .	Ditto.
,,	XXXVII	Bádsháhí Lákhiráj grants.	Ditto . .	Ditto . .	Ditto.

I.—The Jalpáiguri and Darjeeling Districts—*continued.*

Enactments declared in force or extended—continued.

Year.	No.	Subject.	Extent to which declared in force or extended.	Places in or to which declared in force or extended.	Notifications.
			(*1*).—*Bengal Regulations*—continued.		
1793	XXXVIII	Loans by Civil Servants.	The extent to which it was, on the 3rd March, 1881, in force in any part of Bengal not included in any Scheduled District, and had not been repealed by any enactment extending to the Jalpáiguri and Darjeeling Districts.	West Jalpáiguri, and That portion of the Jalpáiguri Division known as the Western Dvárs, that is, the country lying between the Teesta and Sunkos[a] rivers in the Jalpáiguri District.[b]	See Notification opposite Reg. I of 1793, on p. 624.
1794	III	Revenue-arrears, &c.	Ditto . . .	West Jalpáiguri.	Ditto.
1799	V	Native Wills and Intestacies.	Ditto . .	Ditto . .	Ditto.
1800	VIII	Pergunnah Register.	Ditto . .	Ditto . .	Ditto.
1801	I	Realisation of Revenue.	Ditto. . .	Ditto . .	Ditto.
1804	X	State-Offences.	Ditto . .	West Jalpáiguri and Western Dvárs.	Ditto.

[a] The word "Sunkos" has been substituted for "Juldhoka"—see Notification, dated 25th May, 1881—Calcutta Gazette, 8th June, 1881, Pt. IA, p. 107.

[b] This tract is hereinafter referred to as "Western Dvars".

I.—The Jalpáiguri and Darjeeling Districts.—*continued.*

Enactments declared in force or extended—continued.

Year.	No.	Subject.	Extent to which declared in force or extended.	Places in or to which declared in force or extended.	Notifications.
			(*I*).—*Bengal Regulations*—continued.		
1806	XI	Passage of Troops.	The extent to which it was, on the 3rd March, 1881, in force in any part of Bengal not included in any Scheduled District, and had not been repealed by any enactment extending to the Jalpáiguri and Darjeeling Districts.	West Jalpáiguri. Western Dvárs and within the Darjeeling Division—the hills west of the Teesta river in the District of Darjeeling[a], and the Terai of the Darjeeling District.[b]	See Notification opposite Reg. I of 1793, on p. 624.
1810	XIX	Native Endowments: Escheats.	Ditto . .	West Jalpáiguri.	Ditto.
„	XX	Army-retainers: Military bázárs.	Ditto . .	West Jalpáiguri and Western Dvárs.	Ditto.
1812	V	Collection of [illegible] Land-revenue.	. .	West Jalpáiguri; Western Hills; Terai, and within the Darjeeling Division—the Dumson Subdivison in the District of Darjeeling.[c]	Ditto.
„	XI	Immigrants.	Ditto . .	West Jalpáiguri and Dumson.	Ditto.

[a] These hills are hereinafter referred to as "Western Hills".
[b] This tract is hereinafter referred to as "Terai".
[c] This tract is hereinafter referred to as "Dumson".

I.—The Jalpáiguri and Darjeeling Districts—*continued.*

Enactments declared in force or extended—continued.

Year.	No.	Subject.	Extent to which declared in force or extended.	Places in or to which declared in force or extended.	Notifications.
			(*1*).—*Bengal Regulations*—continued.		
1817	XX	Police .	The extent to which it was, on the 3rd March, 1881, in force in any part of Bengal not included in any Scheduled District, and had not been repealed by any enactment extending to the Jalpáiguri and Darjeeling Districts.	West Jalpáiguri, Western Dvárs, Western Hills, Terai and Dumson.	See Notification opposite Reg. I of 1793, on p. 624.
1818	III	State Prisoners.	Ditto . .	West Jalpáiguri and Western Dvárs.	Ditto.
1819	II	Resumption of Revenue.	Ditto . .	West Jalpáiguri.	Ditto.
1821	IV	Magistrates.	Ditto . .	West Jalpáiguri, Western Hills, Terai and Dumson.	Ditto.
1822	III	Board of Revenue.	Ditto .	Ditto . .	Ditto.
„	XI	Sale of Land for Arrears of Revenue.	Ditto . .	West Jalpáiguri.	Ditto.
1823	VI	Indigo suits	Ditto . .	Ditto . .	Ditto.
„	VII	Loans to Covenanted Civil Servants.	Ditto . .	West Jalpáiguri and Western Dvárs.	Ditto.

I.—The Jalpáiguri and Darjeeling Districts—*continued.*

Enactments declared in force or extended—continued.

Year.	No.	Subject.	Extent to which declared in force or extended.	Places in or to which declared in force or extended.	Notifications.
			(*1*).—*Bengal Regulations*—continued.		
1825	VI	Passage of Troops.	The extent to which it was, on the 3rd March, 1881, in force in any part of Bengal not included in any Scheduled District, and had not been repealed by any enactment extending to the Jalpáiguri and Darjeeling Districts.	West Jalpáiguri and Western Dvars.	See Notification opposite Reg. I of 1793, on p. 624.
,,	IX	Extending Reg. VII of 1822: Lease by Revenue-authority.	Ditto . .	West Jalpáiguri	Ditto.
,,	XI	Alluvion and Diluvion.	Ditto . .	West Jalpáiguri and Terai.	Ditto.
,,	XIII	Kánúngos .	Ditto . .	West Jalpáiguri	Ditto.
,,	XIV	Lákhiráj Tenures.	Ditto . .	Ditto . .	Ditto.
1827	III	Extortion by Native Officers.	Ditto . .	Ditto . .	Ditto.
,,	V	Management of Estates under attachment.	Ditto . .	Ditto . .	Ditto.
1828	III	Special Commissioners.	Ditto . .	Ditto . .	Ditto.
,,	IV	Power of Collectors in making or revising Settlements.	Ditto . .	West Jalpáiguri, Western Hills and Terai.	Ditto.

I.—The Jalpáiguri and Darjeeling Districts—*continued.*

Enactments declared in force or extended—continued.

Year	No	Subject.	Extent to which declared in force or extended.	Places in or to which declared in force or extended.	Notifications.
			(*1*).—*Bengal Regulations*—concluded.		
1829	I	Board of Revenue Administration of Justice	The extent to which it was, on the 3rd March, 1881, in force in any part of Bengal not included in any Scheduled District, and had not been repealed by any enactment extending to the Jalpáiguri and Darjeeling Districts.	West Jalpáiguri, Western Hills, Terai and Dumson.	See Notification opposite Reg. I of 1793, on p. 624.
,,	XVII	Widow-burning.	Ditto . .	West Jalpáiguri and Western Dáars.	Ditto.
1830	V	Indigo Contracts.	Ditto . .	West Jalpáiguri.	Ditto.
			(*2*).—*Acts of the Governor General in Council.*[a]		
1836	X	Indigo Contracts.	The extent to which it was, on the 3rd March, 1881, in force in any part of Bengal not included in any Scheduled District, and had not been repealed by any enactment extending to the Jalpáiguri and Darjeeling Districts.	West Jalpáiguri.	See Notification opposite Reg. I of 1793, on p. 624.

[a] The following Acts have been omitted from this List, as they have been repealed, as follows.—
Act VI of 1840, by Act XXVI of 1881;
Act IX of 1842, by Act IV of 1882,
Acts XI of 1841, XII of 1842, XXXIII of 1852 and III of 1859, by Act VIII of 1887;
Act XX of 1856, by Ben. Act V of 1876;
Act XV of 1850, by Act V of 1876;
Act XI of 1855, by Act IX of 1887,
Act X of 1868, by Act VI of 1882,
Acts X of 1877, and XII of 1879 (in so far as it amended the Code of Civil Procedure), by Act XIV of 1882.

I.—The Jalpáiguri and Darjeeling Districts—*continued.*

Enactments declared in force or extended—continued.

Year	No.	Subject.	Extent or which declared in force or extended.	Places in or to which declared in force or extended.	Notifications.
		(2).—*Acts of the Governor General in Council*—continued.			
1836	XXI	Creating Zilas.	The extent to which it was, on the 3rd March, 1881, in force in any part of Bengal not included in any Scheduled District, and had not been repealed by any enactment extending to the Jalpáiguri and Darjeeling Districts.	West Jalpáiguri and Western Dwárs.	See Notification opposit Reg. I of 1793, on p. 624.
„	XXVI	Governor General's Camp Police.	Ditto . .	West Jalpáiguri.	Ditto.
1837	IV	Power to acquire land.	Ditto . .	Ditto . .	Ditto.
1838	XXV	Wills executed before the 1st January, 1866.	Ditto . .	Ditto . .	Ditto.
1839	XXIX	Dower where Marriage was contracted before the 1st January, 1866.	Ditto . .	Ditto . .	Ditto.
„	XXX	Inheritance where descent took place before the 1st January, 1866.	Ditto . .	Ditto . .	Ditto.

1.—The Jalpáiguri and Darjeeling Districts—*continued.*

Enactments declared in force or extended—continued.

Year	No.	Subject.	Extent to which declared in force or extended	Places in or to which declared in force or extended.	Notifications.
		(2).—*Acts of the Governor General in Council*—continued.			
1839	XXXII	Interest	The extent to which it was, on the 3rd March, 1881, in force in any part of Bengal not included in any Scheduled District, and had not been repealed by any enactment extending to the Jalpáiguri and Darjeeling Districts.	West Jalpáiguri, Western Dwárs, Western Hills, Terai and Dumson.	See Notification opposite Reg. I of 1793, on p. 624.
1841	XII	Sales of land for Revenue-arrears	Ditto . .	West Jalpáiguri.	Ditto.
„	XIX	Curators in cases of Successions.	Ditto . .	Ditto . .	Ditto.
1843	V	Slavery .	Ditto . .	West Jalpáiguri, Western Dwárs, Western Hills, Terai and Dumson.	Ditto.
1847	IX	Assessment of new lands.	Ditto . .	West Jalpáiguri.	Ditto.
„	XX	Copyright .	Ditto . .	Ditto . .	Ditto.
1848	XX	Enforcement of Attendance of Landholders.	Ditto . .	Ditto . .	Ditto.
1850	XII	Default of Public Accountants.	Ditto . .	West Jalpáiguri, Western Hills, Terai and Dumson.	Ditto.

I.—THE JALPÁIGURI AND DARJEELING DISTRICTS—*continued.*

Enactments declared in force or extended—continued.

Year.	No.	Subject.	Extent to which declared in force or extended.	Places in or to which declared in force or extended.	Notifications.
		(2).—*Acts of the Governor General in Council*—continued.			
1850	XVIII	Protection of Judicial Officers.	The extent to which it was, on the 3rd March, 1881, in force in any part of Bengal not included in any Scheduled District, and had not been repealed by any enactment extending to the Jalpáiguri and Darjeeling Districts.	West Jalpáiguri, Western Hills, Terai and Dumson.	See Notification opposite Reg. I of 1793, on p. 624.
„	XIX	Binding of Apprentices.	Ditto . .	West Jalpáiguri.	Ditto.
„	XXI	Non-forfeiture of rights by loss of Caste.	Ditto . .	Ditto . .	Ditto.
„	XXXIV	State Prisoners.	Ditto . .	West Jalpáiguri and Western Duárs.	Ditto.
„	XXXVII	Inquiries into the behaviour of Public Servants.	Ditto . .	West Jalpáiguri.	Ditto.
„	XLIV	Board of Revenue.	Ditto . .	Ditto . .	Ditto.
852	XXX	Naturalization of Aliens.	Ditto . .	Ditto . .	Ditto.
1863	II	Burdens on land.	Ditto . .	Ditto . .	Ditto.

I.—The Jalpáiguri and Darjeeling Districts—*continued.*

Enactments declared in force or extended—continued.

Year.	No.	Subject.	Extent to which declared in force or extended.	Places in or to which declared in force or extended	Notifications
		(*2*).—*Acts of the Governor General in Council*—continued.			
1853	XIX	Recusant Witnesses.	The extent to which it was, on the 3rd March, 1881, in force in any part of Bengal not included in any Scheduled District, and had not been repealed by any enactment extending to the Jalpáiguri and Darjeeling Districts.	West Jalpáiguri and Western Dvárs.	See Notification opposite Reg. I of 1793, on p. 624.
1854	XXXI	Barring Entails: Conveyances by Married Women.	Ditto . .	West Jalpáiguri.	Ditto.
1855	XI	Mesne Profits and Improvements.	Ditto . .	Ditto . .	Ditto.
„	XII	Executors and Administrators.	Ditto . .	Ditto . .	Ditto.
	XIII	Compensation for loss occasioned by Death.	Ditto . .	Ditto . .	Ditto.
„	XXIII	Administration of Mortgaged Estates in Cases of Descents occurring or Devises made before the 1st January, 1856.	Ditto . .	Ditto . .	Ditto.

I.—The Jalpáiguri and Darjeeling Districts—*continued.*

Enactments declared in force or extended—continued.

Year.	No.	Subject.	Extent to which declared in force or extended.	Places in or to which declared in force or extended.	Notifications.
		(*2*).—*Acts of the Governor General in Council*—continued.			
1855	XXIV	Penal Servitude.	The extent to which it was, on the 3rd March, 1881, in force in any part of Bengal not included in any Scheduled District, and had not been repealed by any enactment extending to the Jalpáiguri and Darjeeling Districts.	West Jalpáiguri and Western Dwárs.	See Notification opposite Reg. I of 1793, on p. 624.
„	XXVIII	Interest .	Ditto . .	West Jalpáiguri, Western Dwárs, Western Hills, Terai and Dumson.	Ditto.
1856	IX	Bills of Lading.	Ditto . .	West Jalpáiguri	Ditto.
„	XI	Desertion by European soldiers.	Ditto . .	Ditto . .	Ditto.
„	XII	Civil Court Amins.	Ditto . .	West Jalpáiguri and Western Dwárs.	Ditto.
„	XV	Marriage of Hindú Widows.	Ditto . .	West Jalpáiguri	Ditto.
1857	XI	Offences against the State.	Ditto . .	West Jalpáiguri and Western Dwárs.	Ditto.

I.—The Jalpáiguri and Darjeeling Districts—*continued.*

Enactments declared in force or extended—continued.

Year.	No.	Subject.	Extent to which declared in force or extended.	Places to or to which declared in force or extended.	Notifications.
			(2).—*Acts of the Governor General in Council*—continued.		
1857	XIII	Opium .	The extent to which it was, on the 3rd March, 1881, in force in any part of Bengal not included in any Scheduled District, and had not been repealed by any enactment extending to the Jalpáiguri and Darjeeling Districts.	West Jalpáiguri	See Notification opposite Reg. 1 of 1793, on p. 624.
"	XXV	Forfeiture by Mutineers.	Ditto . .	West Jalpáiguri and Western Dvárs.	Ditto.
1858	III	State Prisoners.	Ditto . .	Ditto . .	Ditto.
"	XXXI	Settlement of Alluvion.	Ditto . .	West Jalpáiguri	Ditto.
"	XXXV	Lunacy, Mufassal Courts.	Ditto . .	West Jalpáiguri and Western Dvárs.	Ditto.
"	XXXVI	Lunatic Asylums.	Ditto . .	West Jalpáiguri, Western Dvárs, Western Hills and Dumson.	Ditto.
"	XL	Minors .	Ditto . .	West Jalpáiguri	Ditto.
1859	IX	Forfeitures .	Ditto . .	Ditto . .	Ditto.
"	XI	Sales of land for arrears of Revenue.	Ditto . .	Ditto . .	Ditto.

I.—The Jalpáiguri and Darjeeling Districts—*continued.*

Enactments declared in force or extended—continued.

Year.	No.	Subject.	Extent to which declared in force or extended.	Places in or to which declared in force or extended.	Notifications.
		(*2*).—*Acts of the Governor General in Council*—continued.			
1859	XI—*contd.*	Sales for arrears of Revenue.	The whole Act	The Darjeeling District and the Western Dwárs.	*No. 309, dated the 3rd March, 1881.*—In exercise of the power conferred by section 5 of Act XIV of 1874 (The Scheduled Districts Act, 1874), His Honour the Lieutenant-Governor of Bengal is pleased, with the previous sanction of the Governor General in Council, to extend Act XI of 1859 (*to improve the law relating to sales of land for arrears of revenue in the Lower Provinces under the Bengal Presidency*) and Bengal Acts III of 1862 (*An Act to amend Act XI of 1859*) and VII of 1868 (*to make further provision for the recovery of arrears of land-revenue and public demands recoverable as arrears of land-revenue*) to the Darjeeling District and to that portion of the Jalpáiguri District known as the Western Dwárs, that is, the country lying between the Teesta and Sunkos[a] rivers. [Published, Calcutta Gazette, 9th March, 1881, Pt. IA, p. 71, and Gazette of India, 5th March, 1881, Pt. I, p 77.]
1860	XXI	Registration of Societies.	The extent to which it was, on the 3rd March, 1881, in force in any part of Bengal not included in any Scheduled District, and had not	West Jalpáiguri.	See Notification opposite Reg. I of 1793, on p. 624.

[a] The word "Sunkos" has been substituted for "Juldhoka"—see Notification, dated 25th May, 1881—Calcutta Gazette, 8th June, 1881, Part IA, p 107.

I—The Jalpáiguri and Darjeeling Districts—*continued.*

Enactments declared in force or extended—continued.

Year	No.	Subject.	Extent to which declared in force or extended.	Places in or to which declared in force or extended.	Notifications.
			(*2*).—*Acts of the Governor General in Council*—continued.		
1860	XXI—*contd.*	Registration of Societies	been repealed by any enactment extending to the Jalpáiguri and Darjeeling Districts.		
„	XXVII	Collection of Debts on Successions.	Ditto . .	West Jalpáiguri	See Notification opposite Reg. I of 1793, on p. 624.
1861	IX	Minors .	Ditto . .	Ditto . .	Ditto.
„	„	Ditto .	The whole Act	Darjeeling District.	*Dated, the 4th August, 1866.*—In exercise of the powers conferred by section 3 of the Scheduled Districts Act, 1874, His Honour the Lieutenant-Governor of Bengal is pleased, with the previous sanction of the Governor General in Council, to declare that the undermentioned Acts are in force in the district of Darjeeling:— Act IX of 1861 (*an Act to amend the law relating to minors*). Act XXI of 1866 (the Native Converts' Marriage Dissolution Act, 1866). [Published, Calcutta Gazette, 11th August, 1866, Pt. I, p. 912, and Gazette of India, 25th August, 1866, Pt. I, p. 500.]
1862	III	Government Seal.	The extent to which it was, on the 3rd March, 1881, in force in any part of Bengal not included in any Scheduled District, and had not been	West Jalpáiguri and Western Dwárs.	See Notification opposite Reg. I of 1793, on p. 624.

I.—The Jalpáiguri and Darjeeling Districts—*continued.*

Enactments declared in force or extended—continued.

Year.	No.	Subject.	Extent to which declared in force or extended.	Places in or to which declared in force or extended.	Notifications.
		(*2*).—*Acts of the Governor General in Council*—continued.			
1862	III—*contd.*	Government Seal.	repealed by any enactment extending to the Jalpáiguri and Darjeeling Districts.		
1863	XVI	Excise-duty payable on Spirits used in Arts and Manufactures.	Ditto . .	West Jalpáiguri.	See Notification opposite Reg. I of 1793, on p. 624.
„	XXIII	Claims to Waste-lands.	Ditto . .	Ditto . .	Ditto.
„	„	Ditto .	The whole Act (as amended by Act IX of 1871).	Western Dwárs	*No. 745, dated the 24th September, 1875.* — It is hereby notified that, under the provisions of section 5 of Act XIV of 1874 (The Scheduled Districts Act), the Lieutenant-Governor, with the sanction of the Governor General in Council, is pleased to extend Act XXIII of 1863 (*an Act to provide for the adjudication of claims to waste lands*), as amended by the Indian Limitation Act, 1871, to that portion of the Jalpáiguri and Darjeeling Divisions known as the Western Dwárs. [Published, Calcutta Gazette, 15th September, 1875, Pt. I, p. 1148, and Gazette of India, 25th September, 1875, Pt. I, p. 497.]
„	XXXI	Gazette of India.	The extent to which it was, on the 3rd March, 1881, in force in any part of	West Jalpáiguri, Western Dwárs, Western Hills, Terai and Dumson.	See Notification opposite Reg. I of 1793, on p. 624.

I.—The Jalpáiguri and Darjeeling Districts—*continued.*

Enactments declared in force or extended—continued.

Year	No.	Subject.	Extent to which declared in force or extended.	Places in or to which declared in force or extended.	Notifications.
			(2).—*Acts of the Governor General in Council*—continued.		
1863	XXXI—*contd*	Gazette of India.	Bengal not included in any Scheduled District, and had not been repealed by any enactment extending to the Jalpáiguri and Darjeeling Districts.		
1864	III	Foreigners .	Ditto . .	West Jalpáiguri, Western Dwárs, Western Hills, Terai and Dumson.	See Notification opposite Reg. I of 1793, on p. 624.
„	VI	Whipping .	Ditto . .	Ditto . .	Ditto.
1865	III	Common Carriers.	Ditto . .	West Jalpáiguri, Western Hills, Terai and Dumson.	Ditto.
„	XV	Parsi Marriages and Divorces.	Ditto . .	West Jalpáiguri.	Ditto.
„	XXI	Parsi Intestate Succession.	Ditto . .	Ditto . .	Ditto.
1866	V	Bills of Exchange: Commercial Law.	Ditto . .	Ditto . .	Ditto.
„	XXI	Dissolution of Native Converts' Marriages.	Ditto . .	Ditto . .	Ditto.
„	„	Ditto .	The whole Act.	Darjeeling District.	See Notification opposite Act IX of 1861, on p. 638.

I.—The Jalpáiguri and Darjeeling Districts—*continued.*

Enactments declared in force or extended—continued.

Year.	No.	Subject.	Extent to which declared in force or extended.	Places in or to which declared in force or extended.	Notifications.
		(2).—*Acts of the Governor General in Council*—continued.			
1866	XXVIII	Powers of Trustees and Mortgagees.	The extent to which it was, on the 3rd March, 1881, in force in any part of Bengal not included in any Scheduled District, and had not been repealed by any enactment extending to the Jalpáiguri and Darjeeling Districts.	West Jalpáiguri, Western Hills, Terai and Dumson.	See Notification opposite Reg. I of 1793, on p. 624.
1867	XXV	Printing Presses, &c	Ditto . .	Ditto . .	Ditto.
1869	XV	Evidence of Prisoners.	Ditto . .	West Jalpáiguri, Western Dvárs, Western Hills, Terai and Dumson.	Ditto.
1877	I	Specific Relief.	The whole Act.	West Jalpáiguri.	*No. 1778, dated the 14th December, 1882.*—In exercise of the power conferred by section 5 of Act XIV of 1874 (The Scheduled Districts Act, 1874), His Honour the Lieutenant-Governor of Bengal is pleased, with the previous sanction of the Governor General in Council, to extend Act I of 1877 (the Specific Relief Act) to that portion of the Jalpáiguri Division which was formerly the Jalpáiguri subdivision, and now forms the

I.—The Jalpáiguri and Darjeeling Districts—*continued.*

Enactments declared in force or extended—continued.

Year.	No.	Subject.	Extent to which declared in force or extended.	Places in or to which declared in force or extended.	Notifications.
		(2).—*Acts of the Governor General in Council*—continued.			
1877	I—*contd.*	Specific Relief.			western portion of the District of Jalpáiguri and extends as far east as the Teesta river. [Published, Calcutta Gazette, 20th December, 1882, Pt. IA., and Gazette of India, 16th December, 1882, Pt. I, p. 511.]
1882	XIV	Civil Procedure Code.	The whole Act, except sections 1 and 3.	The Districts of Darjeeling and Jalpáiguri.	*No. 762, dated the 1st June, 1882.*—In exercise of the power conferred by section 5 of Act XIV of 1874 (The Scheduled Districts Act, 1874), His Honour the Lieutenant-Governor of Bengal is pleased, with the previous sanction of the Governor General in Council, to extend Act XIV of 1882 (*an Act to consolidate and amend the laws relating to the Procedure of the Courts of Civil Judicature*), except sections 1 and 3 of the said Act, which are already in force— to the Districts of Darjeeling and Jalpáiguri (called in Act XIV of 1874 the Darjeeling and Jalpáiguri Divisions); the District of Hazáribágh; the District of Lohardugga; the District of Manbhoom; the Pargana of Dhalbhoom, in Singhbhoom; and the Mahál of Angul. [Published, Calcutta Gazette, 7th June, 1882, Pt. IA., and Gazette of India, 3rd June, 1882, Pt. I, p. 218.]

I.—The Jalpáiguri and Darjeeling Districts—*concluded.*

Enactments declared in force or extended—concluded.

Year.	No.	Subject.	Extent to which declared in force or extended.	Places in or to which declared in force or extended.	Notifications.
			(2).—*Acts of the Governor General in Council*—concluded.		
1888	VII	Amending Civil Procedure Code.	The whole Act, except so much thereof as amends the Registration and Limitation Acts.	The Districts of Darjeeling and Jalpáiguri.	*Dated the 9th November, 1888.*—In exercise of the power conferred by section 5 of the Scheduled Districts Act, XIV of 1874, His Honour the Lieutenant-Governor of Bengal is pleased, with the previous sanction of the Governor General in Council, to extend the Civil Procedure Code Amendment Act, VII of 1888, except so much thereof as amends the Indian Registration Act, 1877, and the Indian Limitation Act, 1877, which is already in force, to the undermentioned scheduled districts, namely:— the Districts of Darjeeling and Jalpáiguri (called in Act XIV of 1874 the Darjeeling and Jalpáiguri Divisions); and the Muhál of Angul. [Published, Calcutta Gazette, 14th November 1888, Pt. I, p. 950, and Gazette of India, 17th November, 1888, Pt. I, p. 534.]
			(3).—*Acts of the Bengal Council.*		
1862	III	Amending Act XI of 1859.	The whole Act.	The Darjeeling District and the Western Dvárs.	See Notification opposite Act XI of 1859, on p. 639.
1868	VII	Recovery of arrears of Land-revenue.	Ditto . .	Ditto . .	Ditto.

II.—THE HILL TRACTS OF CHITTAGONG.[a]

[*The Act has not yet been brought into force in these Tracts.*]

III.—THE SONTHAL PERGUNNAHS.[b]

[*The Act has not yet been brought into force in these Pergunnahs.*]

IV.—THE CHOTA NAGPORE DIVISION.[c]

The Scheduled Districts Act, 1874, was brought into force in the Chota Nagpore Division by the following Notifications, namely:—

No. 1664A.

The 5th November, 1877.—In exercise of the power conferred by section 3 of Act XIV of 1874 (The Scheduled Districts Act), His Honour the Lieutenant-Governor of Bengal is pleased, with the previous sanction of the Governor General in Council, to declare that the said Act is in force in the—

* * * * * *

District of Hazáribágh.
,, of Lohardugga.
,, of Manbhoom.
Pergunnah Dhalbhoom in Singhbhoom.

* * * * * *

[Published, Calcutta Gazette, 14th November, 1877, Pt. I, p. 1623, and Gazette of India, Extraordinary, 14th November, 1887.]

No. 1393.

The 21st October, 1881.—In exercise of the power conferred by section 3 of Act XIV of 1874 (The Scheduled Districts Act), His Honour the Lieutenant-Governor of Bengal is pleased, with the previous sanction of the

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[a] As to laws in force in and the administration of the Hill Tracts of Chittagong, see Act XXII of 1860, as amended by Ben. Act IV of 1863, *supra*, p. 407, and letters Nos. 3300 and 3301, dated 20th June, 1860, from the Secretary to the Government of Bengal, to the Superintendent of the Chittagong Hill Tracts and the Officiating Commissioner of the Chittagong Division, respectively.

[b] As to laws in force in and the administration of the Sonthal Pergunnahs, see Act XXXVII of 1855 and Regs. III of 1872 and II and III of 1886, *supra*, also Notification, dated 19th August, 1867, extending the Code of Civil Procedure, Act VIII of 1859, and its amending Act, XXIII of 1861, for which the new Code, XIV of 1882, should now be substituted—see Act XIV of 1882, s. 3, also footnotes on p. 597, *supra*.

[c] As to the administration of the Chota Nagpore Division, see Act XX of 1854, *supra*, p. 290. The Porahat Estate has been annexed to the Singbhum District in the Chota Nagpur Division — See Act II of 1893. S. 2.

IV.—The Chota Nagpore Division.

Governor General in Council, to declare that the said Act is in force in the Kolhan, in the District of Singhbhoom, in the Chota Nagpore Division.

[Published, Calcutta Gazette, 2nd November, 1881, Pt. IA., p. 189, and Gazette of India, 22nd October, 1881, Pt. I, p. 504.]

Enactments declared in force or extended.

Year.	Number.	Subject.	Extent to which declared in force or extended.	Places in or to which declared in force or extended.	Notifications.
			(1).—Bengal Regulations.		
1793	I	Revenue Settlement declared permanent.	The extent to which it was, on the 21st October, 1881, in force in any part of Bengal not included in any Scheduled District.	Hazáribágh .	*No. 1395, dated the 21st October, 1881.*—In exercise of the powers conferred by section 3 of Act XIV of 1874 (the Scheduled Districts Act), His Honour the Lieutenant-Governor of Bengal is pleased, with the previous sanction of the Governor General in Council, to declare that the enactments mentioned in the schedule hereto annexed are in force in the District of Hazáribágh, in the Chota Nagpore Division, to the extent to which they are now in force in any part of Bengal not included in any Scheduled District. 2. Nothing herein contained shall be deemed to affect the operation of any enactment in force in the said district, and not included in the said Schedule (Here follows the Schedule.) [Published, Calcutta Gazette, 2nd November, 1881, Pt. IA., p. 192, and Gazette of India, 22nd October, 1881, Pt. I, p. 507.]
,,		Ditto .	Ditto . .	Manbhoom .	*No. 1397, dated the 21st October, 1881.*—In exercise of the powers conferred by section 3 of Act XIV of 1874 (The Scheduled Districts Act), His Honour the Lieutenant-Governor of Bengal is pleased, with the previous sanction of the Governor

IV.—The Chota Nagpore Division.

Enactments declared in force or extended—continued.

Year.	Number.	Subject.	Extent to which declared in force or extended.	Places in or to which declared in force or extended.	Notifications.
			(*1*).—*Bengal Regulations*—continued.		
1793	I —*contd.*	Revenue Settlement declared permanent.			General in Council, to declare that the enactments mentioned in the schedule hereto annexed are in force in the District of Manbhoom, in the Chota Nagpore Division, to the extent to which they are now in force in any part of Bengal not included in any Scheduled District. 2. Nothing herein contained shall be deemed to affect the operation of any enactment in force in the said District, and not included in the said Schedule. (Here follows the Schedule.) [Published, Calcutta Gazette, 2nd November, 1881, Pt. IA., p. 194, and Gazette of India, 22nd October, 1881, Pt. I, p. 509.]
„	„	Ditto .	The extent to which it was, on the 21st October, 1881, in force in any part of Bengal not included in any Scheduled District.	Dhalbhoom .	*No. 1398, dated the 21st October, 1881.*—In exercise of the powers conferred by section 3 of Act XIV of 1874 (The Scheduled Districts Act), His Honour the Lieutenant-Governor of Bengal is pleased, with the previous sanction of the Governor General in Council, to declare that the enactments mentioned in the Schedule hereto annexed are in force in the Pergunnah Dhalbhoom, in the District of Singhbhoom, in the Chota Nagpore Division, to the extent to which they are now in force in any part of Bengal not included in any Scheduled District. 2. Nothing herein contained shall be deemed to affect the operation of any enactment in force in the

IV.—The Chota Nagpore Division.

Enactments declared in force or extended—continued.

Year.	Number.	Subject.	Extent to which declared in force or extended.	Places in or to which declared in force or extended.	Notifications.
		(1)—*Bengal Regulations*—continued.			
1793	I —*contd.*	Revenue Settlement declared permanent.			said Pergunnah, and not included in the said Schedule. (Here follows the Schedule.) [Published, Calcutta Gazette, 2nd November, 1881, Pt. IA., p. 195, and Gazette of India, 22nd October, 1881, Pt. I, p. 510.]
"	II	Collectors and Board of Revenue.		Hazáribágh .	See Notification opposite Reg. I of 1793, on p 645
	"	Ditto .	The extent to which it was, on the 21st October, 1881, in force in any part of Bengal not included in any Scheduled District.	Lohardugga .	*No. 1396, dated the 21st October, 1881.*—In exercise of the powers conferred by section 3 of Act XIV of 1874 (The Scheduled Districts Act), His Honour the Lieutenant-Governor of Bengal is pleased, with the previous sanction of the Governor General in Council, to declare that the enactments mentioned in the Schedule hereto annexed are in force in the District of Lohardugga in the Chota Nagpore Division to the extent to which they are now in force in any part of Bengal not included in any Scheduled District. 2. Nothing herein contained shall be deemed to affect the operation of any enactment in force in the said District, and not included in the said Schedule. (Here follows the Schedule.) [Published, Calcutta Gazette, 2nd November, 1881, Pt IA , p. 193, and Gazette of India, 22nd October, 1881, Pt. I, p. 508.]
"	"	Ditto .		Manbhoom .	See Notification opposite Reg. I of 1793, on p. 645.

IV.—Chota Nagpore Division.

Enactments declared in force or extended—continued.

Year	Number.	Subject.	Extent to which declared in force or extended.	Places in or to which declared in force or extended.	Notifications.
			(*1*).—*Bengal Regulations*—continued.		
1793	11 —*contd.*	Collectors and Board of Revenue.		Dhalbhoom .	See Notification opposite Reg. I of 1793, on p 646.
„	VIII	Decennial Settlement.		Hazáribágh .	Ditto, on p. 645.
„	„	Ditto .		Manbhoom .	Ditto, on p. 645.
„	„	Ditto .		Dhalbhoom .	Ditto, on p. 646.
„	XI	Inheritance.		Hazáribágh .	Ditto, on p. 645.
„	„	Ditto .		Lohardugga .	See Notification opposite Reg. II of 1793, on p. 647.
„	„	Ditto .	The extent to which it was, on the 21st October, 1881, in force in any part of Bengal not included in any Scheduled District.	Manbhoom .	See Notification opposite Reg. I of 1793, on p. 645.
„	„	Ditto .		Dhalbhoom .	Ditto, on p. 646.
„	XIX	Non-bádsháhí Lákhiráj grants.		Hazáribágh .	Ditto, on p. 645.
„	„	Ditto .		Lohardugga .	See Notification opposite Reg. II of 1793, on p. 647.
„	„	Ditto .		Manbhoom .	See Notification opposite Reg. I of 1793, on p. 645.
„	„	Ditto .		Dhalbhoom .	Ditto, on p. 646.
„	XXXVIII	Loans by civil servants.		Hazáribágh, Lohardugga, Manbhoom, Dhalbhoom and the Kolhan.	*No. 1394, dated the 21st October, 1881.*—In exercise of the powers conferred by section 3 of Act XIV of 1874 (The Scheduled Districts Act), His Honour the Lieutenant-Governor of Bengal is pleased, with the previous sanction of the Governor General in Council, to declare that the enactments mentioned in the schedule

IV—The Chota Nagpore Division.

Enactments declared in force or extended—continued.

Year	Number.	Subject.	Extent to which declared in force or extended.	Places in or to which declared in force or extended.	Notifications.
			(*1*).—*Bengal Regulations*—continued.		
1793	XXXVIII —*contd.*	Loans by civil servants.	The extent to which it was, on the 21st October, 1881, in force in any part of Bengal not included in any Scheduled District.		hereto annexed are in force in the Districts of Hazáribágh, Lohardugga and Manbhoom, and in Pergunnah Dhalbhoom and the Kolhan, in the District of Singbhoom, to the extent to which they are at present in force in any part of Bengal not included in any Scheduled District. 2. Nothing herein contained shall be deemed to affect the operation of any enactment in force in the said portions of the Chota Nágpore Division and not included in the said Schedule. (Here follows the Schedule.) [Published, Calcutta Gazette, 2nd November, 1881, Pt. I A., p. 1189, and Gazette of India, 22nd October, 1881, Pt. I, p. 804.]
1794	III	Revenue-arrears, &c.		Hazáribágh .	See Notification opposite Reg. I of 1793, on p. 645.
,,	,,	Ditto .		Lohardugga .	See Notification opposite Reg. II of 1793, on p. 647.
,,	,,	Ditto .		Manbhoom .	See Notification opposite Reg. I of 1793, on p. 645.
,,	,,	Ditto .		Dhalbhoom .	Ditto, on p. 646.
1793	I	Conditional sales of land.		Hazáribágh .	Ditto, on p. 645.
,,	,,	Ditto .		Lohardugga .	See Notification opposite Reg II of 1793, on p. 647.
,,	,,	Ditto .		Manbhoom .	See Notification opposite Reg. I of 1793, on p. 645.
,,	,,	Ditto .		Dhalbhoom .	Ditto, on p. 646.

* Ben Reg. I of 1793 has been repealed by Act IV of 1882, which extends to the whole of British India, except the Bombay Presidency, the Punjab and Burma, but has not yet been declared in force in the Chota Nagpore Division, the Regulation has not been reprinted in the Code.

IV.—The Chota Nagpore Division.

Enactments declared in force or extended—continued.

Year	No.	Subject.	Extent to which declared in force or extended.	Places in or to which declared in force or extended.	Notifications.
		(*1*).—*Bengal Regulations*—continued.			
1799	V	Native Wills and Intestacies.		Hazáribágh .	See Notification opposite Reg. I of 1793, on p. 645.
„	„	Ditto .		Lohardugga .	See Notification opposite Reg. II of 1793, on p. 647.
„	„	Ditto .		Manbhoom .	See Notification opposite Reg. I of 1793, on p. 645.
„	„	Ditto .		Dhalbhoom .	Ditto, on p. 646.
1800	VIII	Pergunnah Register.		Hazáribágh .	Ditto, on p. 645.
„	„	Ditto .		Lohardugga .	See Notification opposite Reg II of 1793, on p. 647.
„	„	Ditto .		Manbhoom .	See Notification opposite Reg. I of 1793, on p. 645.
„	„	Ditto .	The extent to which it was, on the 21st October, 1881, in force in any part of Bengal not included in any Scheduled District.	Dhalbhoom .	Ditto, on p. 646.
„	X	Division of estates, Jungle Maháls.		Hazáribágh, Lohardugga, Manbhoom, Dhalbhoom and the Kolhan.	See Notification opposite Reg. XXXVIII of 1793, on p. 648.
1804	X	State offences.		Hazáribágh .	See Notification opposite Reg. I of 1793, on p. 645.
„	„	Ditto .		Lohardugga .	See Notification opposite Reg. II of 1793, on p. 647.
„	„	Ditto .		Manbhoom .	See Notification opposite Reg. I of 1793, on p. 645.
„	„	Ditto .		Dhalbhoom .	Ditto, on p. 646.
1806	XI	Passage of Troops.		Hazáribágh, Lohardugga, Manbhoom, Dhalbhoom and the Kolhan.	See Notification opposite Reg. XXXVIII of 1793, on p. 648.
„	XVII[a]	Interest Redemption.		Hazáribágh .	See Notification opposite Reg. I of 1793, on p. 645.

[a] Ben. Reg XVII of 1806 has been repealed by Act IV of 1882, which extends to the whole of Brit India except the Bombay Presidency, the Punjab and Burma, but has not yet been declared in force in Chota Nagpore Division, the Regulation has not been reprinted in the Code.

IV.—The Chota Nagpore Division.

Enactments declared in force or extended—continued.

Year.	No.	Subject.	Extent to which declared in force or extended.	Places in or to which declared in force or extended.	Notifications.
			(*1*).—*Bengal Regulations*—continued.		
1806	XVII —*contd*	Interest: Redemption.		Lohardugga .	See Notification opposite Reg. II of 1793, on p. 647.
,,	,,	Ditto .		Manbhoom .	See Notification opposite Reg. I of 1793, on p. 645.
,,	,,	Ditto .		Dhalbhoom .	Ditto, on p. 646.
1810	XIX	Native Endowments: Escheats.		Hazáribágh .	Ditto, on p. 645.
,,	,,	Ditto .		Lohardugga .	See Notification opposite Reg. II of 1793, on p. 647.
,,	,,	Ditto .		Manbhoom .	See Notification opposite Reg. I of 1793, on p. 645.
,,	,,	Ditto .		Dhalbhoom .	Ditto, on p. 646.
,,	XX	Camp-retainers, Military Bázárs.	The extent to which it was, on the 21st October, 1881, in force in any part of Bengal not included in any Scheduled District.	Hazáribágh, Lohardugga, Manbhoom, Dhalbhoom and the Kolhan.	See Notification opposite Reg. XXXVIII of 1793, on p. 648.
1812	V	Collection of Land-revenue.		Hazáribágh .	See Notification opposite Reg. I of 1793, on p. 645.
,,	,,	Ditto .		Manbhoom .	Ditto, on p. 645.
,,	,,			Dhalbhoom .	Ditto, on p. 646.
1817	XX	Police .		Hazáribágh .	Ditto, on p. 645.
,,	,,	Ditto .		Lohardugga .	See Notification opposite Reg. II of 1793, on p. 647.
,,	,,	Ditto .		Manbhoom .	See Notification opposite Reg. I of 1793, on p. 645.
,,	,,	Ditto .		Dhalbhoom .	Ditto, on p. 646.
1818	III	State Prisoners.		Hazáribágh .	Ditto, on p. 645.
,,	,,	Ditto .		Lohardugga .	See Notification opposite Reg. II of 1793, on p. 647.
,,	,,	Ditto .		Manbhoom .	See Notification opposite Reg. I of 1793, on p. 645.

IV.—The Chota Nagpore Division.

Enactments declared in force or extended—continued.

Year.	No.	Subject.	Extent to which declared in force or extended	Places in or to which declared in force or extended.	Notifications.
			(*1*).—*Bengal Regulations*—continued.		
1818	III (*contd.*)	State Prisoners.		Dhalbhoom .	See Notification opposite Reg I of 1793, on p. 646.
1819	II	Resumption of Revenue.		Hazáribágh .	Ditto, on p. 645.
,,	,,	Ditto .		Lohardugga .	See Notification opposite Reg II of 1793, on p. 647.
,,	,,	Ditto .		Manbhoom .	See Notification opposite Reg. I of 1793, on p. 645.
,,	,,	Ditto .		Dhalbhoom .	Ditto, on p. 646.
,,	VI*	Ferries: Police.		Hazáribágh .	Ditto, on p. 645.
,,	,,	Ditto .		Lohardugga .	See Notification opposite Reg. II of 1793, on p. 647.
,,	,,	Ditto .	The extent to which it was, on the 21st October, 1881, in force in any part of Bengal not included in any Scheduled District.	Manbhoom .	See Notification opposite Reg. I of 1793, on p. 645.
,,	,,	Ditto .		Dhalbhoom .	Ditto, on p. 646.
,,	VIII	Patni Taluqs.		Manbhoom .	Ditto, on p. 645.
,,	,,	Ditto .		Dhalbhoom .	Ditto, on p. 646.
1821	IV	Magistrates.		Hazáribágh .	Ditto, on p. 645.
,,	,,	Ditto .		Lohardugga .	See Notification opposite Reg. II of 1793, on p. 647.
,,	,,	Ditto .		Manbhoom .	See Notification opposite Reg. I of 1793, on p. 645.
,,	,,	Ditto .		Dhalbhoom .	Ditto, on p. 646.
1822	VII	Settlements		Hazáribágh .	Ditto, on p. 645.
,,	,,	Ditto .		Lohardugga .	See Notification opposite Reg. II of 1793, on p. 647.
,,	,,	Ditto .		Manbhoom .	See Notification opposite Reg. I of 1793, on p. 645.
,,	,,	Ditto .		Dhalbhoom .	Ditto, on p. 646.

* Ben Reg VI of 1819 has been repealed by Ben. Act I of 1885, which extends to the whole of Bengal, but has not yet been declared in force in the Chota Nagpore Division, the Regulation has not been reprinted in the Code.

IV.—The Chota Nagpore Division.

Enactments declared in force or extended—continued.

(*1*).—*Bengal Regulations*—continued.

Year.	No.	Subject.	Extent to which declared in force or extended.	Places in or to which declared in force or extended.	Notifications.
1822	XI	Sale of land for arrears of revenue.	Section 38 so much as was, on the 21st October, 1881, in force in any part of Bengal, not included in any Scheduled District.	Hazáribágh, Lohardugga, Manbhoom, Dhalbhoom and the Kolhan.	See Notification opposite Reg. XXXVIII of 1793, on p. 648.
1823	VII	Loans to Covenanted Civil Servants.		Ditto . .	Ditto.
1825	VI	Passage of Troops.		Ditto . .	Ditto.
,,	IX	Extending Regulation VII of 1882, Leases by Revenue-authority.	The extent to which it was, on the 21st October, 1881, in force in any part of Bengal not included in any Scheduled District.	Hazáribágh .	
,,	,,	Ditto .		Manbhoom .	
,,	,,	Ditto .		Dhalbhoom .	
,,	XIII	Kánúngos		Hazáribágh .	
,,	,,	Ditto .		Manbhoom .	See Notification opposite Reg. I of 1793, on pp. 645 and 646.
,,	,,	Ditto .		Dhalbhoom .	
,,	XIV	Lákhiraj tenures.		Hazáribágh .	
,,	,,	Ditto .		Manbhoom .	
,,	,,	Ditto .		Dhalbhoom	

IV.—The Chota Nagpore Division.

Enactments declared in force or extended—continued.

Year.	No.	Subject.	Extent to which declared in force or extended.	Places in or to which declared in force or extended.	Notifications.
			(*I*).—*Bengal Regulations*—continued.		
1825	XX[a]	Courts Martial and Military Courts of Requests.		Hazáribágh, Lohardugga, Manbhoom, Dhalbhoom and the Kolhan.	See Notification opposite Reg. XXXVIII of 1793, on p. 648.
1827	III	Extortion by Native Officers.		Hazáribágh .	See Notification opposite Reg. I of 1793, on p. 645.
"	"	Ditto .		Lohardugga .	See Notification opposite Reg. II of 1793, on p. 647.
"	"	Ditto .		Manbhoom .	See Notification opposite Regulation I of 1793, on p. 645.
"	"	Ditto .		Dhalbhoom .	Ditto, on p 646.
"	V	Management of estates under attachment.	The extent to which it was, on the 31st October, 1881, in force in any part of Bengal not included in any Scheduled District.	Hazáribágh .	Ditto, on p. 645.
"	"	Ditto .		Lohardugga .	See Notification opposite Reg. II of 1793, on p. 647.
"	"	Ditto .		Manbhoom .	See Notification opposite Reg. I of 1793, on p. 645.
"	"	Ditto .		Dhalbhoom .	Ditto, on p. 646.
1828	IV	Power of Collectors in making or revising settlements.		Hazáribágh .	Ditto, on p. 645.
"	"	Ditto .		Lohardugga .	See Notification opposite Reg. II of 1793, on p 647.
"	"	Ditto .		Manbhoom .	See Notification opposite Reg. I of 1793, on p. 645.
"	"	Ditto .		Dhalbhoom .	Ditto, on p. 646.

[a] Ben. Reg. XX of 1825 has been repealed by Act X of 1882, which extends to the whole of British India, but has not yet been declared in force in the Chota Nagpore Division; the Regulation has not been reprinted in the Code.

IV.—The Chota Nagpore Division.

Enactments declared in force or extended—continued.

Year.	No.	Subject.	Extent to which declared in force or extended.	Places in or to which declared in force or extended.	Notifications.
		(*1*).—*Bengal Regulations*—concluded.			
1829	XVII	Sati	The extent to which it was, on the 21st October, 1881, in force in any part of Bengal not included in any Scheduled District.	Hazáribágh, Lohardugga, Manbhoom, Dhalbhoom and the Kolhan.	See Notification opposite Reg. XXXVIII of 1793, on p. 648.
1833	IX	Deputy Collectors.		Házaribágh .	See Notification opposite Reg I of 1793, on p. 645.
,,	,,	Ditto .		Lohardugga .	See Notification opposite Reg. II of 1793, on p. 647.
,,	,,	Ditto .		Manbhoom .	See Notification opposite Reg. I of 1793, on p. 645.
,,	,,	Ditto .		Dhalbhoom .	Ditto, on p. 646.
		(*2*).—*Acts of the Governor General in Council.*[a]			
1834	II	Secretaries to Government.	The extent to which it was, on the 21st October, 1881, in force in any part of Bengal not included in any Scheduled District.	Hazáribágh, Lohardugga, Manbhoom, Dhalbhoom and the Kolhan.	See Notification opposite Reg. XXXVIII of 1793, on p. 645.
1836	X	Indigo Contracts		Ditto .	Ditto.
,,	XXI	Creating Zilas.		Ditto .	Ditto.
,,	XXVI	Governor General's Camp Police.		Ditto .	Ditto.
1837	IV	Power to acquire land.		Hazáribágh .	See Notification opposite Reg. I of 1793, on p. 645.
,,	,,			Lohardugga .	See Notification opposite Reg. II of 1793, on p. 647.
,,	,,			Manbhoom .	See Notification opposite Reg. I of 1793, on p. 645.
,,	,,			Dhalbhoom .	Ditto, on p. 646.

[a] Act XI of 1865 has been omitted from this List, as it has been repealed by Act IX of 1887, which has been declared in force in Hazáribagh, Lohardugga, Manbhoom, Dhalbhoom and the Kolhan—see *infra*, p 673.

IV.—The Chota Nagpore Division.

Enactments declared in force or extended—continued.

Year.	No.	Subject	Extent to which declared in force or extended.	Places in or to which declared in force or extended.	Notifications.
		(2).—*Acts of the Governor General in Council*—continued.			
1838	XXV	Wills made between 1st February, 1839, and 1st January, 1866.		Hazáribágh, Lohardugga, Manbhoom, Dhalbhoom and the Kolhan.	See Notification opposite Reg. XXXVIII of 1793, on p. 648.
1839	XXIX	Power .		Ditto . .	Ditto.
,,	XXX	Inheritance		Ditto . .	Ditto.
,,	XXXII	Interest .		Házaribágh .	See Notification opposite Reg. I of 1793, on p. 645.
,,	,,	Ditto .		Lohardugga .	See Notification opposite Reg. II of 1793, on p. 647.
,,	,,	Ditto .		Manbhoom .	See Notification opposite Reg. I of 1793, on p. 645.
,,	,,	Ditto .	The extent to which it was, on the 21st October, 1881, in force in any part of Bengal not included in any Scheduled District.	Dhalbhoom .	Ditto, on p. 646.
1840	VI[a]	Bills of Exchange.		Hazáribágh, Lohardugga, Manbhoom, Dalbhoom and the Kolhan.	See Notification opposite Reg. XXXVIII of 1793, on p. 648.
1841	XI[a]	Military Courts of Requests.		Hazáribágh .	See Notification opposite Reg. I of 1793, on p. 645.
,,	,,	Ditto .		Lohardugga .	See Notification opposite Reg. II of 1793, on p. 647.
,,	,,	Ditto .		Manbhoom .	See Notification opposite Reg. I of 1793, on p. 645
,,	,,	Ditto .		Dhalbhoom .	Ditto, on p. 646.
,,	XII	Sales of land for Revenue arrears.		Hazáribágh .	Ditto, on p. 645.
,,	,,	Ditto .		Lohardugga .	See Notification opposite Reg. II of 1793, on p. 647.
,,	,,	Ditto .		Manbhoom .	See Notification opposite Reg. I of 1793, on p. 645.
,,	,,	Ditto .		Dhalbhoom .	Ditto, on p. 646.

[a] Acts VI of 1840 and XI of 1841 have been repealed by Acts XXVI of 1881 and VIII of 1887, respectively, which extend to the whole of British India, but have not yet been declared in force in the Chota Nagpore Division.

IV —The Chota Nagpore Division

Enactments declared in force or extended—continued.

Year	No	Subject	Extent to which declared in force or extended	Places in or to which declared in force or extended	Notifications
		(2).—*Acts of the Governor General in Council*—continued.			
1841	XIX	Curators in cases of succession		Hazáribágh	See Notification opposite Reg I of 1793, on p 645.
,,	,,	Ditto		Lohardugga	See Notification opposite Reg II of 1793, on p 647
,,	,,	Ditto		Manbhoom	See Notification opposite Reg I of 1793, on p 645.
,,	,,	Ditto		Dhalbhoom	Ditto, on p 646
,,	XXIV	Illusory appointments Infants' property		Hazáribágh, Lohardugga Manbhoom Dalbhoom and the Kolhan	See Notification opposite Reg XXXVIII of 1793, on p 648.
,,	XXVII	Unclaimed dividends in Insolvent estates	The extent to which it was, on the 21st October, 1881, in force in any part of Bengal not included in any Scheduled District	Ditto	Ditto
1842	IX[a]	Extending 4 & 5 Vic, cap 21 (Lease and Release)		Ditto	Ditto
,,	XII[b]	Military Bázárs		Hazáribágh	See Notification opposite Reg I of 1793, on p 645
,,	,,	Ditto		Lohardugga	See Notification opposite Reg II of 1793, on p 647.
1843	V	Slavery		Hazáribágh, Lohardugga, Manbhoom, Dalbhoom and the Kolhan	See Notification opposite Reg XXXVIII of 1793, on p. 648
1847	IX	Assessment of new lands (Lower Provinces)		Ditto	Ditto.

[a] Act IX of 1842 has been repealed by Act IV of 1882 which extends to the whole of British India except the Bombay Presidency the Punjab and Burma but has not yet been declared in force in the Chota Nagpore Division, not yet been declared in force in the Chota Nagpore Division

[b] Act XII of 1843 has been repealed by Act VIII of 1887, which extends to the whole of British India, but has

IV.—The Chota Nagpore Division.

Enactments declared in force or extended—continued.

Year	No.	Subject.	Extent to which declared in force or extended.	Places in or to which declared in force or extended.	Notifications.
		(2).—*Acts of the Governor General in Council*—continued.			
1847	XX	Copyright.		Hazáribágh, Lohardugga, Manbhoom, Dalbhoom and the Kolhan.	See Notification opposite Reg. XXXVIII of 1793, on p. 648.
1848	XX	Enforcement of attendance of Landholders.		Ditto . .	Ditto.
1850	XII	Public Accountants.		Ditto . .	Ditto.
„	XVIII	Protection of Judicial Officers.		Ditto . .	Ditto.
„	XIX	Binding Apprentices.	The extent to which it was, on the 21st October, 1881, in force in any part of Bengal not included in any Scheduled District.	Ditto . .	Ditto.
„	XXI	Non-forfeiture of rights by loss of caste.		Ditto . .	Ditto.
„	XXV	Forfeiture of deposits on land sales.		Ditto . .	Ditto.
„	XXXIII	Sale of Patni Tenures.		Manbhoom .	See Notification opposite Reg. I of 1793, on p. 645.
„	XXXIV	State Prisoners.		Hazáribágh, Lohardugga, Manbhoom, Dalbhoom and the Kolhan.	See Notification opposite Reg. XXXVIII of 1793, on p. 648.
„	XXXVII	Inquiries into the behaviour of Public Servants.		Ditto . .	Ditto.

IV.—The Chota Nagpore Division.

Enactments declared in force or extended—continued.

Year.	No.	Subject.	Extent to which declared in force or extended.	Places in or to which declared in force or extended.	Notifications.
		(2).—*Acts of the Governor General in Council*—continued.			
1850	XLIV	Board of Revenue.		Hazáribágh, Lohardugga, Manbhoom, Dhalbhoom and the Kolhan.	See Notification opposite Reg. XXXVIII of 1793, on p. 648.
1851	VIII	Tolls on roads and bridges.		Ditto . .	Ditto.
1852	,,	Sheriffs' fees.		Ditto . .	Ditto.
,,	XXX	Naturalization of aliens.		Ditto . .	Ditto.
,,	XXXIII[a]	Enforcement of Judgments.	The extent to which it was, on the 21st October, 1881, in force in any part of Bengal not included in any Scheduled District.	Ditto . .	Ditto.
1853	II	Public charges on Landholders.		Ditto . .	Ditto.
,,	VI	Summary suits for arrears of rent, &c.		Ditto . .	Ditto.
,,	XIX	Recusant witnesses.		Hazáribágh .	See Notification opposite Reg. I of 1793, on p. 645.
,,	,,	Ditto .		Lobardugga .	See Notification opposite Reg. II of 1793, on p. 647.
,,	,,	Ditto .		Manbhoom .	See Notification opposite Reg. I of 1793, on p. 645.
,,	,,	Ditto .		Dhalbhoom .	Ditto, on p. 646.
1854	XXXI	Real actions: Conveyance of land.		Hazáribágh, Lohardugga. Manbhoom, Dhalbhoom and the Kolhan.	See Notification opposite Reg. XXXVIII of 1793, on p. 648.

[a] Act XXXIII of 1853 has been repealed by Act VIII of 1887, which extends to the whole of British India, but has not yet been declared in force in the Chota Nagpore Division.

IV.—The Chota Nagpore Division.

Enactments declared in force or extended—continued.

Year	No.	Subject.	Extent to which declared in force or extended.	Places in or to which declared in force or extended.	Notifications.
		(2).—*Acts of the Governor General in Council*—continued.			
1855	XI	Mesne profits; Improvements.		Hazáribágh, Lohardugga, Manbhoom, Dhalbhoom and the Kolhan.	See Notification opposite Reg. XXXVIII of 1793, on p. 648.
,,	XII	Suits for wrongs: Executors and Administrators.		Ditto . .	Ditto.
,,	XIII	Compensation for loss occasioned by death.	,,	Ditto . .	Ditto.
,,	XXIII	Administration of mortgaged estates.	The extent to which it was, on the 21st October, 1881, in force in any part of Bengal not included in any Scheduled District.	Ditto . .	Ditto.
,,	XXIV	Penal servitude.		Ditto .	Ditto.
,,	XXVIII	Repeal of Usury Laws.		Hazáribágh .	See Notification opposite Reg. I of 1793, on p. 645.
,,	,,	Ditto .		Lohardugga .	See Notification opposite Reg. II of 1793, on p. 647.
,,	,,	Ditto .		Manbhoom, .	See Notification opposite Reg. I of 1793, on p. 645.
,,	,,	Ditto .		Dhalbhoom .	Ditto, on p. 646.
1856	IX	Bills of lading.		Hazáribágh, Lohardugga, Manbhoom, Dhalbhoom and the Kolhan.	See Notification opposite Reg. XXXVIII of 1793, on p. 648.
,,	XI	Desertion by European soldiers.		Ditto . .	Ditto.
,,	XII	Civil Court Amins.		Hazáribágh .	See Notification opposite Reg. I of 1793, on p. 645.

IV.—The Chota Nagpore Division.

Enactments declared in force or extended—continued.

Year.	No.	Subject.	Extent to which declared in force or extended.	Places in or to which declared in force or extended.	Notifications.
		(2).—*Acts of the Governor General in Council*—continued.			
1856	XII —*contd.*	Civil Court Amins.		Lohardugga .	See Notification opposite Reg. II of 1793, on p. 647.
„	„	Ditto .		Manbhoom .	See Notification opposite Reg. I of 1793, on p. 645.
„	„	Ditto .		Dhalbhoom .	Ditto, on p. 646.
„	XV	Marriage of Hindu widows.			
1857	XI	State Offences.			
„	XIII	Opium .	The extent to which it was, on the 21st October, 1881, in force in any part of Bengal not included in any Scheduled District.		
„	XXV	Forfeitures for Mutiny.			
1858	III	State Prisoners.		Hazáribágh, Lohardugga, Mánbhoom, Dhalbhoom and the Kolhan.	See Notification opposite Reg. XXXVIII of 1793, on p. 648.
„	XXXI	Alluvial land.			
„	XXXV	Lunacy: Mufassal Courts.			
„	XXXVI	Lunatic Asylums.			
„	XL	Minors .			
1859	III[a]	Cantonment Joint Magistrates.			
„	IX	Forfeiture .	Sections 16, 17, 18 and 20: so much as was, on the 21st October, 1881, in force in any part of Bengal, not included in any Scheduled District.	Hazáribágh .	See Notification opposite Reg. I of 1793, on p. 645.
„	„	Ditto .		Lohardugga .	See Notification opposite Reg. II of 1793, on p. 647.
„	„	Ditto .		Manbhoom .	See Notification opposite Reg. I of 1793, on p. 645.
„	„	Ditto .		Dhalbhoom .	Ditto, on p. 646.

[a] Act III of 1859 has been repealed by Act VIII of 1887, which extends to the whole of British India, but has not yet been declared in force in the Chota Nagpore Division.

IV.—The Chota Nagpore Division.

Enactments declared in force or extended—continued.

Year	No.	Subject.	Extent to which declared in force or extended.	Places in or to which declared in force or extended.	Notifications.
			(*2*).—*Acts of the Governor General in Council*—continued.		
1859	X	Rent	The extent to which it was, on the 21st October, 1881, in force in any part of Bengal not included in any Scheduled District.	Manbhoom	See Notification opposite Reg. I of 1793, on p. 645.
,,	XI	Sales of land for arrears of Revenue	The whole Act.	Hazáribágh, Lohardugga, Manbhoom, Dhalbhoom and the Kolhan.	*No. 1400, dated the 21st October, 1881.*—In exercise of the powers conferred by section 5 of Act XIV of 1874 (The Scheduled Districts Act), His Honour the Lieutenant-Governor of Bengal is pleased, with the previous sanction of the Governor General in Council, to extend Act XI of 1859 (*to improve the law relating to sales of land for arrears of revenue in the Lower Provinces under the Bengal Presidency*) and Bengal Acts III of 1862 (*an Act to amend Act XI of* 1859) and VII of 1868 (*to make further provision for the recovery of arrears of land-revenue and public demands recoverable as arrears of land-revenue*) to the following portions of the Chota Nagpore Division, namely, the Districts of Hazáribágh, Lohardugga and Manbhoom, and Pergunnah Dhalbhoom and the Kolhan in the District of Singhbhoom. [Published, Calcutta Gazette, 2nd November, 1881, Pt. IA, p. 196, and Gazette of India, 22nd October, 1881, Pt. I, p. 611.]

IV.—The Chota Nagpore Division.

Enactments declared in force or extended—continued.

Year.	No.	Subject.	Extent to which declared in force or extended.	Places in or to which declared in force or extended.	Notifications.
		(2).—*Acts of the Governor General in Council*—continued.			
1859	XIII	Fraudulent breaches of contract by workmen.	The extent to which it was, on the 21st October, 1881, in force in any part of Bengal not included in any Scheduled District.	Hazáribágh, Lohardugga, Manbhoom, Dhalbhoom and the Kolhan.	See Notification opposite Reg. XXXVIII of 1793, on p. 648.
„	XIV	Limitation of suits.	Section 15[a] .	The Kolhan .	*No. 1339, dated the 21st October, 1881.*—In exercise of the powers conferred by section 3 of Act XIV of 1874 (The Scheduled Districts Act), His Honour the Lieutenant-Governor of Bengal is pleased, with the previous sanction of the Governor General in Council, to declare that section 15 of Act XIV of 1859 (Limitation of Suits) is in force in the Kolhan, in the District of Singhbhoom, in the Chota Nagpore Division. [Published, Calcutta Gazette, 2nd November, 1881, Pt. IA., p. 196, and Gazette of India, 22nd October, 1881, Pt. I, p. 511.]
„	XV[b]	Patents .	The extent to which it was, on the 21st October, 1881, in force in any part of Bengal not included in any Scheduled District.	Hazáribágh, Lohardugga, Manbhoom, Dhalbhoom and the Kolhan.	See Notification opposite Reg. XXXVIII of 1793, on p. 648.
1860	IX	Disputes between workmen and employers.		Ditto .	Ditto
„	XXI	Registration of societies.		Ditto .	Ditto.

[a] S. 15 of Act XIV of 1859 has been repealed by Act I of 1877, which extends to the whole of British India except the Scheduled Districts, and has not yet been extended to the Kolhan—see *infra*, p. 670.

[b] Act XV of 1859 has been repealed by Act V of 1888, which extends to the whole of British India, but has not yet been declared in force in the Chota Nagpore Division.

IV.—The Chota Nagpore Division.

Enactments declared in force or extended—continued.

Year.	No.	Subject.	Extent to which declared in force or extended.	Places in or to which declared in force or extended.	Notifications.
		(2).—*Acts of the Governor General in Council*—continued.			
1860	XXVII	Collection of debts on succession.		Hazáribágh .	See Notification opposite Reg. I of 1793, on p. 645.
„	„	Ditto .		Lohardugga .	See Notification opposite Reg. II of 1793, on p. 647.
„	„	Ditto .		Manbhoom .	See Notification opposite Reg. I of 1793, on p. 645.
„	„	Ditto .		Dhalbhoom .	Ditto, on p. 646.
„	XXXIV	Indemnity for acts during Mutiny.		Hazáribágh, Lohardugga, Manbhoom, Dhalbhoom and the Kolhan.	See Notification opposite Reg. XXXVIII of 1793, on p. 648.
„	XLV	Penal Code	The extent to which it was, on the 21st October, 1881, in force in any part of Bengal not included in any Scheduled District.	Ditto .	Ditto.
1861	V	Police .		Ditto .	Ditto.
„	IX	Minors .		Hazáribágh .	See Notification opposite Reg. I of 1793, on p. 645.
„	„	Ditto .		Lohardugga .	See Notification opposite Reg. II of 1793, on p. 647.
„	„	Ditto .		Manbhoom	See Notification opposite Reg. I of 1793, on p. 645.
„	„	Ditto .		Dhalbhoom .	Ditto, on p. 646.
„	XVI	Stage Carriages.			
1862	III	Government Seal.			
1863	XVI	Excise on spirits used exclusively in manufactures.		Hazáribágh, Lohardugga, Manbhoom, Dhalbhoom and the Kolhan.	See Notification opposite Reg. XXXVIII of 1793, on p. 648.
„	XX	Religious endowments.			

IV.—The Chota Nagpore Division.

Enactments declared in force or extended—continued.

Year	No.	Subject.	Extent to which declared in force or extended.	Places in or to which declared in force or extended.	Notifications.
		(2).—*Acts of the Governor General in Council*—continued.			
1863	XXIII	Claims to waste lands.	The extent to which it was, on the 21st October, 1881, in force in any part of Bengal not included in any Scheduled District.	Hazáribágh, Lohardugga, Manbhoom, Dhalbhoom and the Kolhan.	See Notification opposite Reg. XXXVIII of 1793, on p. 648.
,,	XXXI	Official Gazette.			
1864	III	Foreigners.			
,,	VI	Whipping.			
,,	XV	Tolls on public roads and bridges.			
1865	III	Common carriers.			
,,	X	Intestate and testamentary succession,			
,,	XV	Parsi Marriages and Divorces.			
,,	XXI	Intestate succession, Parsis.			
1866	V	Bills of Exchange: Commercial Law.			
,,	X[a]	Trading Companies.			
,,	XIV	Post Office.			
,,	XXI	Dissolution of marriages of Native converts			

[a] Act X of 1866 has been repealed by Act VI of 1882, which extends to the whole of British India, but has not yet been declared in force in the Chota Nagpore Division.

IV.—The Chota Nagpore Division.

Enactments declared in force or extended—continued.

Year.	No.	Subject.	Extent to which declared in force or extended.	Places in or to which declared in force or extended.	Notifications.
		(2).—*Acts of the Governor General in Council*—continued.			
1866	XXVII	Conveyance of property vested in mortgagees and trustees.	The extent to which it was, on the 21st October 1881, in force in any part of Bengal not included in any Scheduled District.	Hazáribágh Lohdarugga and Manbhoom, Pergunnah Dhalbhoom and the Kolhan.	See Notification opposite Reg. XXXVIII of 1793, on p. 648.
„	XXVIII	Powers of mortgagees and trustees.			
1867	VII*	Purchasing arms, &c., from soldiers.			
„	XVI	Acting Judges.			
„	XXII	Sárais and Puráos.			
„	XXV	Printing Presses.			
1868	I	General Clauses.			
„	XIV*	Contagious Diseases.			
„	XXVI*	Municipal Lock-hospitals.			
1869	II*	Justices of the Peace.			
„	IV	Divorce .			
„	V	Native Articles of War.			
„	XV	Evidence of prisoners.			
„	XX	Volunteers.			

* Acts VII of 1867 and XIV and XXVI of 1868 and II of 1869 have been respectively repealed by Acts XVI and IX of 1868 and X of 1882, which extend to the whole of British India, but have not yet been declared in force in the Chota Nagpore Division.

IV.—The Chota Nagpore Division.

Enactments declared in force or extended—continued.

Year	No.	Subject.	Extent to which declared in force or extended.	Places in or to which declared in force or extended.	Notifications.
		(2).—*Acts of the Governor General in Council*—continued.			
1870	VII	Court-fees		Hazáribágh .	See Notification opposite Reg. I of 1793, on p. 645.
„	„	Ditto .		Lohardugga .	See Notification opposite Reg. II of 1793, on p. 647.
„	„	Ditto .		Manbhoom .	See Notification opposite Reg. I of 1793, on p. 645.
„	„	Ditto .		Dhalbhoom .	Ditto, on p. 646.
„	VIII	Murder of female infants.		Hazáribágh, Lohardugga, Manbhoom, Dhalbhoom and the Kolhan.	See Notification opposite Reg. XXXVIII of 1793, on p. 648.
„	X	Acquisition of land for public purposes.	The extent to which it was, on the 21st October, 1881, in force in any part of Bengal not included in any Scheduled District.	Ditto . .	Ditto.
„	XX	Amending Court-fees Act.		Hazáribágh .	See Notification opposite Reg. I of 1793, on p. 645.
„	„	Ditto .		Lohardugga .	See Notification opposite Reg. II of 1793, on p. 647.
„	„	Ditto .		Manbhoom .	See Notification opposite Reg. I of 1793, on p. 645.
„	„	Ditto .		Dhalbhoom .	Ditto, on p. 646.
„	XXI	Wills of Hindus, &c.			
„	XXII[a]	European British subjects.		Hazáribágh, Lohardugga, Manbhoom, Dhalbhoom and the Kolhan.	See Notification opposite Reg. XXXVIII of 1793, on p. 648.
„	XXIII	Coinage and the Mint.			
„	XXVII	Amending Penal Code.			

[a] Act XXII of 1870 has been repealed by Act X of 1882, which extends to the whole of British India, but has not yet been declared in force in the Chota Nagpore Division.

IV.—The Chota Nagpore Division.

Enactments declared in force or extended—continued.

No.	Year.	Subject.	Extent to which declared in force or extended.	Places in or to which declared in force or extended.	Notifications.
		(2).—*Acts of the Governor General in Council*—continued.			
1871	I	Cattle-trespass.		Hazáribágh, Lohardugga, Manbhoom, Dhalbhoom and the Kolhan.	See Notification opposite Reg. XXXVIII of 1793 on p. 648.
,,	III[a]	Paper Currency.			
,,	V	Prisoners.			
,,	VI[b]	Civil Courts, Bengal.		Hazáribágh .	See Notification opposite Reg. I of 1793, on p. 645.
,,	,,	Ditto .		Lohardugga .	See Notification opposite Reg II of 1793, on p. 647.
,,	,,	Ditto .		Manbhoom .	See Notification opposite Reg I of 1793, on p. 645.
,,	,,	Ditto .		Dhalbhoom .	Ditto, on p. 646.
,,	VII[a]	Emigration			
,,	XIX	Sessions Judges, Bengal and N.-W. Provinces.	The extent to which it was, on the 21st October, 1881, in force in any part of Bengal not included in any Scheduled District.		
	XXIII	Pensions .			
,,	XXVI	Advances for agricultural improvements.			
,,	XXVII	Criminal Tribes and Eunuchs.		Hazáribágh, Lohardugga, Manbhoom, Dhalbhoom and the Kolhan.	See Notification opposite Reg. XXXVIII of 1793, on p. 648.
1872	I	Evidence .			
,,	III	Marriage .			
,,	IX	Contract law.			
,,	X[a]	Criminal Procedure.			
,,	XIII[a]	Patents and Designs Protection.			

[a] Acts III and VII of 1871 and X and XIII of 1872 have been respectively repealed by Acts XXI of 1883, X of 1882 and V of 1888, which extend to the whole of British India, but have not yet been declared in force in the Chota Nagpore Division.

[b] Act VI of 1871 has been repealed by Act XII of 1887, which extends to the whole of Bengal, but has not yet been declared in force in the Chota Nagpore Division.

IV.—The Chota Nagpore Division.

Enactments declared in force or extended—continued.

Year	No.	Subject.	Extent to which declared in force or extended.	Places in or to which declared in force or extended.	Notifications.
		(2).—*Acts of the Governor General in Council*—continued.			
1872	XV	Marriage of Christians.	The extent to which it was, on the 21st October, 1881, in force in any part of Bengal not included in any Scheduled District.	Hazáribágh, Lohardugga, Manbhoom, Dhalbhoom, and the Kolhan.	See Notification opposite Reg XXXVIII of 1793, on p. 648.
„	XVIII	Amending Evidence Act.			
„	XIX	Definition of 'Coin,' Penal Code.			
1873	V	Savings Banks.			
„	X	Judicial oaths.			
„	XIV	Lunatic soldiers' property.			
1874	II	Administrator General.			
„	III	Married Women's Property.			
„	IV	Foreign recruiting.			
„	IX	European vagrancy.			
„	XI[a]	Amending Code of Criminal Procedure.			
1875	V	Unattested sepoys.			
„	VIII[a]	Inland Customs.			
„	IX	Majority.			
„	XIII	Probates and Letters of Administration.			
„	XVIII	Law Reports.			
1876	I[a]	Telegraphs			

[a] Acts XI of 1874, VIII of 1875 and I of 1876, have been respectively repealed by Acts X of 1882, XII of 1882, s. 2, and XIII of 1885, which extend to the whole of British India, but have not yet been declared in force in the Chota Nagpore Division.

IV.—The Chota Nagpore Division.

Enactments declared in force or extended—continued.

Year.	No.	Subject.	Extent to which declared in force or extended	Places in or to which declared in force or extended.	Notifications.
		(2).—*Acts of the Governor General in Council*—continued.			
1876	V	Reformatory Schools.	The extent to which it was, on the 21st October, 1881, in force in any part of Bengal not included in any Scheduled District.	Hazáribágh, Lohardugga, Manbhoom, Dhalbhoom and the Kolhan.	See Notification opposite Reg. XXXVIII of 1793, p. 648.
„	VII	Extending and amending Act XXVII of 1871.			
„	IX	Native Coinage.			
„	XI	Presidency Banks.			
„	XVI	Amending Stage Carriages Act.			
„	XIX	Dramatic Performances.			
„	XXI	Amending Land Improvement Act.			
1877	I	Specific Relief.	The whole Act	Hazáribágh, Lohardugga, Manbhoom and Dhalbhoom.	*No. 212, dated 15th February, 1878.*—In exercise of the power conferred by section 5 of Act XIV of 1874 (the Scheduled Districts Act), His Honour the Lieutenant-Governor of Bengal is pleased, with the previous sanction of the Governor General in Council, to extend Act I of 1877 (the Specific Relief Act) to the— District of Hazaribágh. „ of Lohardugga. „ of Manbhoom. Pergunnah Dhalbhoom in Singhbhoom. [Published, Calcutta Gazette, 20th February, 1878, Pt. IA., p. 83, and Gazette of India, 16th February, 1878, Pt. I, p. 82.]
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